

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 8883 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA Sd/-

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1 Whether Reporters of Local Papers may
be allowed to see the judgment ?

2 To be referred to the Reporter or not
?

3 Whether their Lordships wish to see
the fair copy of the judgment ?

Whether this case involves a
substantial question of law as to the
4 interpretation of the constitution of
India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the
civil judge ?

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RINKUBEN DASHRATBHAI PATEL - Petitioner(s)

Versus

THE STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MR DC DAVE for Petitioner(s) : 1,

MS ARCHANA RAWAL, AGP. for Respondents.

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA

Date : 30/04/2007

ORAL JUDGMENT

1 In light of the view that the Court is inclined

to take, the matter is taken up for final hearing and disposal. RULE. Learned Advocates appearing on behalf of the respondents are directed to waive service.

2 The petition has been filed praying for a direction to the respondent authorities to provide a Centre for Examination of Primary Teachers' Training Course (PTC) at village Sujanpur, Taluka Siddhpur, District Patan.

3 Respondent No.3 – The Gujarat State Examination Board conducts the PTC examination. Some of the students filed a petition bearing Special Civil Application No. 7759 of 2006 with a similar prayer pertaining to Academic Year 2005-2006. This Court vide order dated 13.04.2006 disposed of the petition as under :

“Considering the fact that the representation is already made by the petitioner, the respondents are directed to consider the same in accordance with law and on merits as early as possible. However, it is observed that this Court has not expressed any opinion on merits of the case and it is ultimately

for the appropriate authority to take an appropriate decision in accordance with law and on merits.

With above observations and directions the present Special Civil Application stands disposed of accordingly.

Direct Service is permitted."

4 Thereafter, the Board disposed of the representation vide communication dated 21.04.2006 stating that the examination cannot be conducted at any other place but the District Head Quarters in light of the policy decision of the State Government since 1997.

5 Subsequently the students approached the petitioner institution vide representation dated 2.2.2007 and hence the petitioner institution vide communication dated 19.02.2007 made a detailed representation setting out various reasons why the examination centre was required to be kept at Sujanpura in so far as the students of the petitioner institution are concerned. As the representation was not disposed of the petitioner approached this Court.

6 Upon notice being issued the respondents have put in appearance and vide affidavit dated 16.04.2007 the Secretary of respondent No.3-Board has stated as under :

"It is stated that the petitioner has earlier filed Special Civil Application No.7759/2006 before this Hon'ble Court. As per the direction of this Hon'ble Court in order dated 13/04/2006, the representation of the petitioner was considered. At the same time, it was also considered that to restrict the irregularities committed during the examination and also for the sufficient control over the examination Centre by the office of the District Education Officer Authority has taken the decision to hold the examination at the District Head Quarter. Hence, the petitioner is replied accordingly vide letter dated 21/04/2006 and the authority has shown their inability to given the centre as per the individual demand. This is a State Wide Policy published by the notification and is required to be followed. Hence, the petition may not be entertained at this stage and may be rejected.

7. Heard learned Advocate for the petitioner as well as respondent Board.

8. It is apparent that at the time when the earlier representation made by the students came to be disposed of on 21.04.2006 no reasons except reference to the so called policy decision of the State Government were given while rejecting the representation made by the students. The representation made by the petitioner institution has not even been disposed of. What has been stated in paragraph No.8 of the affidavit-in-reply does not appear as reasons for rejecting the earlier representation made by the students. In the aforesaid circumstances, considering from any view point, the action of the respondent authorities cannot be permitted to stand. Communication dated 21.4.2006 whereunder representation made by the students was rejected does not contain any reasons and hence, cannot be the basis for discarding the representation made by the petitioner institution on 19.02.2007. The reasons stated in the Affidavit-in-Reply cannot sustain an order which itself does not contain reasons.

9 The respondent authorities are therefore directed to deal with the representation dated 19.02.2007 made by the petitioner association and pass a reasoned speaking order after granting an opportunity of hearing to the petitioner.

10 The petition is allowed accordingly in the aforesaid terms. Rule made absolute in the aforesaid terms. There shall be no order as to costs.

Sd/-
(D.A.Mehta, J.)

m.m.bhatt