

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 23809 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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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 ?
- 4 Whether this case involves a substantial question of law as to the 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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MINOR DEVANG JAYANTBHAI PANDYA - Petitioner(s)

Versus

THE STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MR KISHOR M PAUL for Petitioner(s) : 1,
 GOVERNMENT PLEADER for Respondent(s) : 1,
 NOTICE SERVED BY DS for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 16/05/2008

ORAL JUDGMENT

- 1.The petitioner has preferred the petition for directing respondent No. 2 to give the benefit

of fee waiver scheme to the petitioner as introduced by respondent No. 1.

2. Heard Mr. Paul learned Counsel for the petitioner and Mr. Shukla learned AGP for the State Authority.

3. The contention of the petitioner is that the petitioner is belonging to SEBC reserved category and therefore, benefit of waiver should be made available to him. It may be stated that the petitioner claimed for the benefit of the waiver of the scheme, but as the requisite certificate was not produced, and only salary certificate was produced, the authority did not conferred the benefit, and the contention of the petitioner is that certificate is subsequently procured and is produced and therefore, benefit be conferred upon the petitioner.

4. Whereas the stand of the State Authority is that the certificate was required to be produced at the relevant point of time, but as it was not produced, the petitioner could not claim the benefit.

5. This Court on 11.3.2008 had passed following

order:

"Rule returnable on 7.5.2008. The respondent Authorities, through the learned AGP, shall inform the name of the last candidate, who has been granted benefit in the Waiver Scheme within one week and the petitioner shall join such student as the party.

*Office shall issue the **notice** to such student also. The respondents shall also produce the details of the students, who have been granted benefit with the further details of the marks secured, income and production of certificate, etc."*

6. Thereafter, on 15.5.2008 following order was passed:

"1. Mr. Shukla learned AGP upon instructions from the Joint Admission Committee, declared before the Court that some seats are still vacant on waiver of fees, if the petitioner is so desirous. The details are (1) L.D. Engineering College, Ahmedabad (2) Government Engineering College, Gandhinagar (3) Sardar Patel Institute of Technology, Vasad and (4) BBM-Vallabh Vidhyanagar, where the petitioner can be allotted seat on waiver of fees.

2. As such, if the seats are available, and the petitioner is desirous to opt for seat as if SEBC category on fees waiver seat, the opportunity is available. Mr. Paul learned Counsel for the petitioner was given information yesterday. However, he has states that his

client is reluctant to get benefit of the aforesaid vacant sets.

3. In my view if the student, who is offered seat with waiver of the fees on the vacancies available, and does not opt, at the later stage, there is not question of allotting any additional benefits to him, even in future. However, Mr. Paul learned Counsel for the petitioner seeks time to get instruction from his client further.

4.S.O. to 16.5.2008."

7.The aforesaid shows that the authorities are ready to offer fees waiver in the aforesaid four institutes, where the vacancies are available. However, the petitioner is not desirous to opt for the allotment of the seats.

8.Mr. Paul learned Counsel for the petitioner submitted that as the petitioner is already admitted in the D.D.I.T. Nadiad, he is not desirous to have shifting.

9.Under these circumstances, when the seat is already offered to the petitioner in the scheme of fees waiver, and if the petitioner does not opt for it, no right can be read as sought to be canvassed on behalf of the petitioner. The aforesaid is coupled with the circumstance that

at the relevant point of time certificate of non-creamy layer was not produced.

10. In view of the above, no further orders are required to be passed and the relief cannot be granted as prayed.

11. Hence, dismissed. Rule discharged. No order as to costs.

(JAYANT PATEL, J.)

Suresh*