



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 8600 of 2018

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE MAULIK J. SHELAT

Approved for Reporting		
Yes	No	
	✓	

SANGADA HANSABEN MALABHAI

Versus

STATE OF GUJARAT & ORS.

Appearance:

MR JAPAN V DAVE(5947) for the Petitioner(s) No. 1

MR SIDDHARTH RAMI, ASSISTANT GOVERNMENT PLEADER for the Respondent(s) No. 1,2,4

MR PRITHVIRAJ JADEJA for MS. SHIVANI J BAROT(17667) for the Respondent(s) No. 3

CORAM:HONOURABLE MR. JUSTICE MAULIK J. SHELAT

Date : 16/02/2026

ORAL JUDGMENT

1. Rule returnable forthwith. Ms. Shivani J. Barot, learned Advocate, waives service of notice of Rule on behalf of respondent No. 3. Mr. Siddharth Rami, learned Assistant Government Pleader, waives service of notice of Rule on behalf of respondent Nos. 1, 2 and 4.



2. With the consent of the learned advocates, the matter is taken up for final hearing forthwith.
3. Heard Mr. Japan V. Dave, learned Advocate for the petitioner, Mr. Siddharth Rami, learned Assistant Government Pleader for the respondent Nos.1, 2 and 4 and Mr. Prithviraj Jadeja, learned Advocate appearing on behalf of Ms. Shivani J. Barot, learned Advocate for the respondent No.3.
4. The present writ petition is filed under Article 226 of the Constitution of India, seeking the following reliefs:

“(a) This Hon'ble Court may be pleased to admit and allow this petition;

(b) This Hon'ble Court may be pleased to issue appropriate writ, order or direction for quashing and setting aside order dated 21.04.18 passed by the Mamlatdar and Executive magistrate, Zhalod District Dahod i.e res no 2 (Annexure-E) in favour of res no 3 and further be pleased to Direct Res no 2 to issue appointment order in favor of the petitioner.

(c) Pending admission, final hearing and disposal of this Petition, stay the implementation and operation of order Dated 24.11.16 passed by Res no 3.

(d) Grant such other and further relief/s as may deem fit and proper in the interest of justice.”



5. At the outset, it must be observed that this is a classic example of outright favouritism shown by the then Mamlatdar of Taluka Jhalod, District Dahod (respondent No.2), whereby he appointed respondent No. 3 as Administrator-cum-Cook, despite her being at serial No. 4 in the merit list.

6. **THE SHORT FACTS OF THE CASE APPEAR TO BE THAT:**

6.1. Pursuant to the advertisement issued by respondent No. 2 to appoint Administrator-cum-Cook in Jhalod, District Dahod, the petitioner and respondent No. 3, along with others, appear to have submitted their applications. As per the case of the petitioner, despite her having secured higher percentage in graduation, i.e., 68%, in the merit list, she stood at serial No. 6 and in the column of graduation, she was shown as "pass". It is further submitted that all other candidates above her are not possessing higher qualifications than the petitioner, including respondent No. 3, who stood at serial No. 4 in the merit list. It is further pointed out to this Court that as per the application form of respondent No. 3, its declared that she has secured only 48.94% in T.Y.B.A. and as such, it is not confirmed as to whether she was a graduate or not as on the date of



application. Nonetheless, in the merit list, respondent No. 3 is shown as graduate having secured 53.40%, which is contrary to her application.

6.2. With the aforesaid background of facts and reasons, the petitioner has approached this Court by way of this petition.

7. SUBMISSIONS OF THE PETITIONER:

7.1. Mr. Dave, learned Advocate for the petitioner, would vehemently submit that the reason of non-appointing petitioner is very much apparent from preparation of the merit list, inasmuch as the petitioner, though having secured highest marks in graduation, ought to be stood at serial No. 1 in the merit list. It is submitted that respondent No. 2 showed undue favour to respondent No. 3 by placing her at serial No. 4, despite her having secured lower marks than petitioner in graduation.

7.2. Mr. Dave, learned Advocate, would further submit that the reason assigned for other candidates, who were placed at serial Nos. 1 and 2 in the merit list, is also absurd and unsustainable, rather runs contrary to the advertisement.

7.3. Mr. Dave, learned Advocate, would further submit that since



respondent No. 3 is less qualified than others, including the petitioner, her appointment by respondent No. 2 is not only arbitrary but illegal and contrary to law, which may be quashed and set aside. It is submitted that the petitioner, being more meritorious than others, shall be appointed.

7.4. Mr. Dave, learned Advocate, would submit that as such, the petitioner had submitted all her certificates of educational qualification, including the degree received from the concerned University. It is submitted that said fact can be verified as all such documents submitted on the record of this case are received by her under the RTI from respondent No. 2.

7.5. Making the above submissions, Mr. Dave, learned Advocate, would request this Court to allow the present writ petition

8. SUBMISSIONS OF THE RESPONDENT NOS.1, 2 & 4:

8.1. Per contra, Mr. Rami, learned AGP appearing for the respondent-State, would only submit that at the relevant point in time, the petitioner had not submitted her graduation certificate and other educational details in support of her application; consequently, no option was left to the authority but to choose a more meritorious person than petitioner. It is



submitted that as the then Mamlatdar-respondent No. 2, is already retired, he is not in a position to substantiate the appointment of respondent No. 3.

8.2. Yet, Mr. Rami, learned AGP, would submit that this Court may pass appropriate order and direct the petitioner to submit her original certificate for verification, then the respondent authority can cross verify it from the concerned University.

9. SUBMISSIONS OF THE RESPONDENT NO.3:

9.1. Mr. Prithviraj Jadeja with Ms. Barot, learned Advocate for respondent No. 3, would submit that at the time of submitting the application, the petitioner had not submitted her educational qualification and as such, the certificate of degree produced by the petitioner is apparently fake one. It is submitted that respondent No. 3 has tried to contact the concerned University from which the petitioner is alleged to have secured the degree of Bachelor of Arts, but it is of no avail to her as the concerned University, would not ready to reveal the third-party information. It is further submitted that there is no reason to upset the appointment of the respondent No. 3, inasmuch as, she has been working honestly in the post since



last more than eight years. It is further submitted that even if this Court comes to the conclusion that respondent No. 3 is less meritorious, but in the absence of documentary evidence as regards the graduation certificate, etc., not produced by the petitioner, she may not be appointed by the respondent authority without actually verifying the credential of such certificate.

- 9.2. Making the above submissions, Mr. Jadeja, learned Advocate, would request this Court to dismiss the present writ petition.
10. No other and further submissions are being made.
11. Having heard the learned Advocates appearing for the respective parties and after going through the pleadings and as observed at the beginning, this Court is of the opinion that it is a clear case of favouritism in public employment by officials of the State. This Court could have come down heavily upon the then Mamlatdar - respondent No. 2 and sought his explanation as to how he appointed the respondent No. 3, but it is pointed out to this Court by Mr. Rami, learned AGP, that the concerned Mamlatdar is already retired from service long back. Hence, at this stage, this Court would not like to go further



deep into the matter to find out under which circumstances and for any extraneous reason respondent No. 2 appointed respondent No.3.

- 12.** This Court has minutely gone through the merit list and remark column, wherein some absurd reasons are noted down by respondent No. 2, thereby not appointed the candidates above the respondent No. 3, who undisputedly higher in merit. There is nothing on record to show and substantiate by the respondent that an unmarried village girl cannot be appointed because in near future she might get married and shift to some other village. Such a reason is not only arbitrary, fanciful, frivolous, but violative of Articles 14 and 16 of the Constitution of India. This would have happened because respondent No. 2 was inclined to appoint respondent No. 3, who was otherwise placed at serial No. 4 in the merit list.
- 13.** Accordingly, having considered the submissions of the respective parties and noticing the aforesaid illegality germane to the matter, this Court is not at all convinced by the arguments of the respondents so far as the continuity of the appointment of respondent No. 3 is concerned.



14. As far as the entitlement of the petitioner to be appointed to the post of Administrator-cum-Cook is concerned, it is disputed by respondents that at the time of submitting her application, she had not submitted her certificate of educational qualification. Such stand taken by the respondents appears to be incorrect, inasmuch as in the form itself, in serial No. 4 against educational qualification, it is specifically written that the candidate will have to attach a true copy of the certificate and percentage. Moreover, Mr. Dave, learned Advocate for the petitioner, is correct in his submission that all certificate of educational qualification submitted on the record of this Court along with the petition was received from respondent No. 2 under the RTI and its seal is also apparent on such certificates. Yet, Mr. Jadeja, learned Advocate for respondent No. 3, has drawn the attention of this Court that, prima facie, the degree obtained by the petitioner from the concerned university, i.e., Dr. B. R. Ambedkar University, Agra, is fake, as the concerned university name is not as reflected in the certificate produced on record, but it is "Dr. Bhimrao Ambedkar University, Agra" and not "Dr. B. R. Ambedkar University, Agra".
15. There is some substance in the arguments of the petitioner as



regard submission of degree certificate of petitioner at the time of submitting application, but stance of respondents cannot be overlooked as degree certificate of petitioner needs to be verified from concerned University. In view of aforesaid facts, at this stage, this Court would not like to issue any direction for the appointment of the petitioner.

- 16.** At the same time, the respondent authority will have to cross-verify and confirm the degree certificate of the petitioner from the concerned University. If such certificate will be found genuine, then there is no cavil that the petitioner, having secured 68% marks and would stand first in the merit list, then requires to be appointed to the post of Administrator-cum-Cook. In a case where, such degree certificate will be found not genuine and fake, it goes without saying that the petitioner cannot be offered appointment on such fake degree certificate. In such circumstances, the respondent authority is directed to call upon the candidate stood at serial No. 2 in the merit list and she will be treated as more meritorious than the petitioner as well as respondent No. 3, as the case may be.
- 17.** In view of the foregoing observations, discussions and reasons, I am of the view that the appointment of respondent No. 3 is



unsustainable in law liable to be quashed and set aside. Consequently, the order of appointment dated 21st April, 2018, issued by respondent No. 2 in favour of respondent No. 3, is quashed and set aside.

- 18.** So far as the appointment of the petitioner is concerned, the aforesaid steps shall be undertaken by the respondent authority before giving her appointment and if her degree certificate will be found fake upon verification from concerned University, the candidate who stood at serial No. 2 in the merit list shall be offered the appointment.
- 19.** The respondent Nos. 1 and 2 herein are directed to complete the said exercise within one month from today and pass appropriate order in regard to the appointment of the Administrator-cum-Cook, as aforesaid.
- 20.** Before parting with this judgement, Respondent No. 1-State is hereby directed to see that in the future, such malpractices are not repeated by its officials; a robust mechanism should be implemented to ensure the purity of the public employment process.
- 21.** In view of aforesaid directions and conclusions, the present writ



petition is partly allowed. Rule is made absolute, to the aforesaid extent. No order as to costs.

NILESH

(MAULIK J. SHELAT, J)