

Sandip Harshadray Munjyasara vs The State Of Gujarat And Anr. on 21 January, 2020

Bench: Chief Justice, S. Abdul Nazeer, Sanjiv Khanna

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ITEM NO.14

COURT NO.1

SECTION I

S U P R E M E C O U R T O F
RECORD OF PROCEEDINGS

I N D I A

Petition for Special Leave to Appeal (C)

No. 15556/2017

(Arising out of impugned final judgment and order dated
20-04-2017 in WP No. 60/2017 passed by the High Court Of
Gujarat At Ahmedabad)

SANDIP HARSHADRAY MUNJYASARA

Petitione

VERSUS

THE STATE OF GUJARAT AND ANR.

Responden

WITH

Diary No(s). 26216/2019 (III)

(IA No.116556/2019-CONDONATION OF DELAY IN FILING and IA
No.116557/2019-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.116558/2019-PERMISSION TO FILE LENGTHY LIST
OF DATES)

Date : 21-01-2020 These petitions were called on
for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE S. ABDUL NAZEER
HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s)

Mr. Colin Gonsalves, Sr. Adv.
Ms. Olivia Bang, Adv.
Mr. Satya Mitra, AOR

For Respondent(s)

Mr. Pritesh Kapoor, Sr. Adv.
Mr. A.P. Mayee, AOR
Mr. A. Rajarajan, Adv.
Mr. A. Selvin Raju, Adv.
Mr. Sanjeev Kr. Choudhary, Adv.

UPON hearing the counsel the Court made the following
O R D E R

In this petition, the petitioner has questioned the manner in which private schools in Gujarat are implementing the provisions of the Right of Children to Free and compulsory Education Act, 2009 (for short, “the Act”).

Mr. Colin Gonsalves, learned senior counsel appearing for the petitioner, referring to sub- clause (c) of sub-Section (1) to Section 12 of the Act which states that 25% of the strength in class-I in schools specified therein must comprise of children belonging to weaker sections and disadvantaged group in the neighbourhood, has contended that the Government of Gujarat had falsely declared on its official website the number of vacancies for children of such background in class-I of some schools as ‘zero’. As a result, parents of children from weaker sections and disadvantageous groups who had looked up the website were turned away and denied admission of their wards to such schools. In fact, according to the petitioner, the website shows ‘zero’ even though there were several vacancies against which such children could be admitted. This situation, the petitioner has contended, renders the provisions of the Act ineffective.

Shri Pritesh Kapoor, learned senior counsel appearing for the State of Gujarat has vehemently denied that the situation complained of even exists. He submits that schools are not permitted to fudge the figure of the vacancies/seats available for such children in class-I. The State Government verify the factual position and take action where-ever necessary.

We find the question whether any such malpractice is indulged in by the schools and wrong/false data is uploaded on the official website or not, is a matter which will have to be gone into by a fact-finding committee. For this purpose, we consider it appropriate to direct that a 3 or 5- member committee shall be constituted by Hon’ble the Chief Justice of the Gujarat High Court. Hon’ble the Chief Justice may consider constituting a Committee comprising of a former Judge of the High Court as the Chairman and two or four other members who may be officers of the Government or persons having expertise in the field of education.

The Committee shall look into the above grievance and other relevant concerns which have been raised in the petition and submit a report to this Court within three months from the date of the first hearing of the Committee.

At this stage a question has arisen about the meaning of the term “at least 25% of the strength of that class” occurring in clause (c) of sub-Section (1) to Section 12 of the Act. Prima facie, we are of the view that the term, “strength of that class” refers to the existing actual or enrolled strength of that class and not sanctioned strength of that class. In any case the Committee so constituted shall work on the basis of the aforesaid interpretation of the quoted term, that is, “25% of the existing actual or enrolled strength of that class”. This question is, however, left open for final determination.

Ordered accordingly.

The Registry is directed to list the matter(s) after the report is received.

[CHARANJEET KAUR]
A.R. - CUM - P.S.

[PRADEEP KUMAR]
COURT MASTER