

# Himanshukumar Rajendrabhai Patel vs State Of Gujarat on 23 July, 2019

**Author: N.V.Anjaria**

**Bench: N.V.Anjaria**

C/SCA/14609/2017

IA ORDER

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL APPLICATION (FOR DIRECTION) NO. 1 of 2019

In

R/SPECIAL CIVIL APPLICATION NO. 14609 of 2017

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HIMANSHUKUMAR RAJENDRABHAI PATEL Versus STATE OF GUJARAT

===== Appearance:

MR.SHALIN MEHTA, SENIOR ADVOCATE with MS VIDHI J BHATT for the PETITIONER(s) No. MR.MANAN MEHTA, AGP for the RESPONDENT(s) No. MR. PARTH H BHATT for the RESPONDENT(s) No.

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CORAM: HONOURABLE MR.JUSTICE N.V.ANJARIA Date : 23/07/2019 IA ORDER Heard learned senior advocate Mr. Shalin Mehta for the applicant□original petitioners and learned Assistant Government Pleader Mr. Manan Mehta for the respondent State.

2. The present application is filed seeking direction against the opponent authorities to comply with the order dated 19.02.2019 passed in the proceedings of main Special Civil Application No.14609 of 2017.

2.1 The aforesaid order dated 19.02.2019 reads as under, "Heard learned senior advocate Mr. Shalin Mehta for the petitioners.

2. In view of order dated 12.7.2016 passed by the Apex Court in State of Gujarat vs. Gohel Hirenkumar Jayantilal in Special Leave to Petition (Civil) No. 28184 to 28229 of 2012, Rule, returnable on 30.4.2019.

C/SCA/14609/2017 IA ORDER

3. It is the case of the petitioners, which could be prima facie countenanced that the petitioners having completed five years fixed pay service as Assistant Teachers, are entitled to the benefits of the interim directions issued by the Supreme Court in the aforesaid order which inter alia provides that the directions would govern all similarly situated teachers and not just who are before the Supreme Court.

4. By way of ad interim relief, it is observed that it will be open for the petitioners to make an application cum representation to the authorities to extend the benefits flowing from the interim order of the Supreme Court during the interregnum. Such application, if made within one week, shall be decided by the competent authority of the respondents within four weeks thereafter and the decision shall be placed on record of the petition.

5. Learned Assistant Government Pleader Ms. Divyangna Jhala waives service of notice of Rule on behalf of the respondent state and its authorities. Learned advocate Mr. Parth Bhatt waives service of notice of Rule on behalf of the respondent No.3."

3. The original petitioners have completed five years in the fixed pay as Assistant Teachers which have made them entitled to receive the benefits including the pay scale as per the interim direction of the Supreme Court received in Gohel Hirenkumar Jayantilal (supra).

4. In the course of hearing of the present Civil Application today, learned Assistant Government Pleader was at his receiving end unable to deny that the petitioners would be entitled to the benefits of the pay scale etc. 4.1 Serious grievance was put forth on behalf of the petitioners that the petitioners have not been paid salary since last three C/SCA/14609/2017 IA ORDER months. They are also entitled to the salary as per the scale by virtue of the interim direction of the Supreme Court as above.

4.2 Responding to the grievance of the petitioners as above, learned Assistant Government Pleader stated that the proposal is already made for compliance of the order dated 19.02.2019, however, the same is pending with the Finance Department.

5. The Supreme Court's interim directions in Gohel Hirenkumar Jayantilal (supra) were these, "In the facts and circumstances of the case, we clarify that respondent nos.1 to 5 and any other similarly situated persons will not be deprived of policy decision of the State Government granting benefit of regularization or full pay to the fix pay employees working in different NGOs working for disabled. The benefits should be made available as per the Government Policy on account of parity without any delay. The benefits will include arrears also and if it has been paid to others who have been regularized. Such benefits should be made available without any delay, preferably within a period of six weeks. It is reiterated that so far the impugned judgment is concerned it will remain stayed until further orders."

5.1 Thus, it is clear from the above that the petitioners are entitled to the full pay in the scale of Assistant Teachers and attendant allowances as may be admissible and payable to them.

6. Since entitlement of the petitioners flows from the directions of the Supreme Court as above and the same could not be disputed, the respondent authorities are directed to finalize the proposal and pay the salary in the pay scale C/SCA/14609/2017 IA ORDER including the arrears payable to them, within a period of four weeks from the date of service of the present order.

7. This application is allowed and disposed of accordingly.

Direct service is permitted.

(N.V.ANJARIA, J) Manshi