

2026 LiveLaw (SC) 104

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

VIKRAM NATH; J., SANDEEP MEHTA; J.

SPECIAL LEAVE PETITION (C) NO.5619 OF 2024; DECEMBER 02, 2025

DAMOR NANABHAI MANABHAI & ORS. versus THE STATE OF GUJARAT & ORS.

Service Law – Reopening of Concluded Litigation – Delay and Laches – "Fence-sitters" – The Supreme Court dismissed Special Leave Petitions filed by primary school teachers seeking to revive a service dispute that had attained finality over a decade ago - The petitioners sought directions similar to a 2021 High Court order which directed the consideration of a representation for higher grade pay scales - held that the petitioners, whose services were terminated in 1994 and whose prior challenges were dismissed in 2009 and 2011, were not "identically situated" to the 2021 petitioner who was still in service.

Practice and Procedure – Misconceived SLPs – Article 136 – The Supreme Court observed that the petitions were "misconceived at the threshold" as they combined a challenge to a High Court order with a prayer to secure the benefits of that very same order - Discretionary jurisdiction under Article 136 cannot be invoked to grant relief that does not arise from an adjudication of the petitioners' rights on merits.

Stale Claims and Representations – The Supreme Court reiterated that the practice of reviving stale or dead claims by making repeated representations followed by a prayer to "consider" them is disapproved - Rejection of a belated representation does not furnish a fresh cause of action - Courts must satisfy themselves that a claim relates to a "live issue" before issuing directions for consideration.

Role of the Bar – Professional Ethics – Supreme Court emphasized that the Bar has an important role in ensuring litigation does not become endless - Counsel are expected to place the full procedural history with clarity and advise litigants against pursuing repetitive proceedings that seek to reopen concluded issues. [Relied on *Union of India v. M.K. Sarkar*, (2010) 2 SCC 59; *State of Uttar Pradesh v. Arvind Kumar Srivastava*, (2015) 1 SCC 347; Paras 7-9]

WITH SPECIAL LEAVE PETITION (C) NO.4044 OF 2025

For Petitioner(s): Ms. Vibha Dutta Makhija, Sr. Adv. Mr. Raj Kishor Choudhary, AOR Mr. Shakeel, Adv. Mr. Shakeel Ahmed, Adv. Ms. Pratibha Singh, Adv. Ms. Shalini Tripathi, Adv. Mr. Praveen Gaur, Adv. Ms. Nehol Sri L.v., Adv. Ms. Rohini Narayanan, Adv. Mr. Vikram Patralekh, Adv. Mr. Shivam Yadav, Adv. Mr. Himanshu Gupta, Adv.

For Respondent(s): Ms. Archana Pathak Dave, A.S.G. Ms. Swati Ghildiyal, AOR Mr. Nimesh Bhatt, Adv.

ORDER

1. The present Special Leave Petitions under Article 136 of the Constitution of India have been filed by the petitioners in relation to the order dated 04.03.2021 passed by the High Court of Gujarat at Ahmedabad in Special Civil Application No. 4293 of 2021. On the one hand, the petitioners have invoked the jurisdiction of this Court seeking leave to appeal against the said order. On the other hand, the prayers in the present Special Leave Petitions proceed on the premise that the course adopted by the High Court in the order dated 04.03.2021 ought to be extended to them, and they seek, in substance, a direction in the nature of mandamus requiring the competent authority to consider their grievance, including their representation, and to pass a reasoned order thereon after affording due opportunity of hearing. The Special Leave Petitions are, therefore, misconceived

at the threshold, as they combine an ostensible challenge to the order dated 04.03.2021 with a prayer to secure the benefit of that very order in their own favour. These Special Leave Petitions are being heard together as the petitioners seek the benefit of the same order.

2. The facts giving rise to the present Special Leave Petitions are as follows.

2.1. The petitioners state that the State Government issued a circular dated 02.01.1990 for filling backlog vacancies of primary school teachers reserved for Scheduled Tribes. Pursuant thereto, an advertisement was issued on 13.02.1990 and 15.02.1990 inviting applications from eligible candidates.

2.2. The petitioners state that they participated in the recruitment process and were appointed as primary school teachers on 12.03.1991. They further state that the State Government subsequently alleged irregularities in the recruitment process and, by orders stated to be dated 12.05.1993, the petitioners were discharged from service.

2.3. The petitioners and other persons approached the High Court of Gujarat at Ahmedabad (hereinafter "the High Court") by filing Special Civil Application No. 3141 of 1993, which came to be allowed by an order dated 22.09.1993. The petitioners were thereafter taken back in service, and show cause notices were issued on 17.12.1993. The petitioners state that their services were again terminated on 30.05.1994.

2.4. The petitioners thereafter pursued remedies before the Primary Education Tribunal. The petitioners state that, after a remand by the High Court by order dated 17.01.1996 in Special Civil Application No. 12312 of 1994, the Tribunal allowed the appeals by order dated 17.10.1996 and directed reinstatement with continuity of service without back wages. The petitioners further state that the State Government set aside the Tribunal's order by exercising review power under Section 24(4) of the Bombay Primary Education Act, 1947 (hereinafter "the 1947 Act") by an order dated 10.06.1997.

2.5. The order dated 10.06.1997 was challenged before the High Court in Special Civil Application No. 4635 of 1997, and the High Court, by order dated 09.10.1997, set aside the said order and directed a fresh decision after hearing. Thereafter, the State Government passed orders dated 07.04.1998 and 22.04.1999, which the petitioners state adversely affected their claim.

2.6. The petitioners challenged the orders dated 07.04.1998 and 22.04.1999 before the High Court. A group of petitions, including Special Civil Application No. 10801 of 2003 and allied matters, came to be dismissed by the High Court by a common judgment and order dated 25.03.2009. The petitioners state that appeals were carried to the Division Bench, and by a common judgment and order dated 06.05.2011 in Letters Patent Appeal No. 2051 of 2010 and connected matters, the Division Bench dismissed the appeals, while also issuing directions to the State Government to undertake an exercise in relation to the identification of backlog vacancies and to proceed thereafter in accordance with law.

2.7. The petitioners submit that, subsequent to the above, other persons similarly situated to them obtained relief from the High Court by judgment and order dated 14.09.2012 in Special Civil Application No. 1454 of 2012 and connected matters, and the State's appeal in Letters Patent Appeal No. 881 of 2013 came to be dismissed by judgment and order dated 20.04.2015 and 21.04.2015.

3. The present Special Leave Petitions have been instituted by the petitioners with reference to the order dated 04.03.2021 passed by the High Court in Special Civil Application No. 4293 of 2021, by which the High Court directed the competent authority

to examine the representation dated 20.10.2020 and to take a decision after affording due opportunity and by passing a reasoned order, while keeping all contentions on merits open. The writ petition before the High Court arose from a claim relating to higher grade pay scales by a teacher stated to be in service. The High Court did not adjudicate any dispute relating to termination, reinstatement or validity of appointment. The petitioners state that they seek issuance of similar directions in their cases.

4. We have heard learned counsel for the petitioners and learned counsel appearing for the State, and we have perused the material placed on record.

5. Having considered the matter, we are not inclined to entertain the present Special Leave Petitions. The order dated 04.03.2021 passed by the High Court is in the nature of a direction to the competent authority to examine the representation and to pass a reasoned order after due opportunity, while expressly keeping all contentions on merits open. The petitioners were not parties to the said proceedings, and they seek issuance of similar directions in their own cases. Such a course cannot be granted by invoking the discretionary jurisdiction of this Court under Article 136 of the Constitution of India, particularly when it does not arise from an adjudication of the petitioners' rights and liabilities on merits.

6. We also find that the petitioners' service dispute, as projected in the present Special Leave Petitions, has a long prior history, and their challenge to the orders dated 07.04.1998 and 22.04.1999 has already been considered and dismissed by the High Court, culminating in the common judgment and order dated 25.03.2009 and the common judgment and order dated 06.05.2011.

7. The present Special Leave Petitions, though framed as a prayer for a similar direction of consideration of a representation, would in substance have the effect of reopening the concluded adjudication arising from the judgment dated 06.05.2011, which cannot be permitted. It has also been stated on behalf of the State that, as on 31.03.2025, there are no vacancies for the post of primary teachers in Junagadh district. This fact further indicates that the present proceedings do not disclose any live, workable relief that warrants exercise of this Court's discretionary jurisdiction under Article 136 of the Constitution of India. It has also been placed on record that some of the petitioners had earlier approached this Court against the said judgment dated 06.05.2011 by way of Special Leave Petition (Civil) No. 3501 of 2014 and Special Leave Petition (Civil) Nos. 6692-6749 of 2014. The said Special Leave Petitions were dismissed on the ground of delay by orders dated 31.01.2014 and 28.02.2014. The law attaches importance to finality in litigation. A party cannot be permitted to re-agitate a concluded controversy by adopting a different procedural route, or by seeking directions of a nature which would have the effect of reopening what has already attained finality.

8. This Court has repeatedly disapproved the practice of seeking to revive stale or dead claims by the device of repeated representations, followed by a prayer for a direction to "consider" and a consequential challenge to the order passed on such consideration. In *Union of India v. M.K. Sarkar*, (2010) 2 SCC 59, this Court held that even where a belated representation is considered and rejected pursuant to a court's direction, the rejection does not furnish a fresh cause of action. The question of limitation, delay and laches has to be examined with reference to the original cause of action and not with reference to the date on which an order is passed on a representation in compliance with such a direction. We believe that a court or tribunal, before issuing a direction for "consideration" without examining the merits, must first satisfy itself that the claim relates to a live issue. If the

claim pertains to a stale or dead issue, the court must put an end to the matter rather than enable avoidable, successive rounds of litigation.

9. In the present case, the petitioners, whose services stand terminated, are not identically situated as the writ petitioner in Special Civil Application No. 4293 of 2021, who raised a claim in respect of higher grade pay scales while being in service. Similarly, while a court order in favour of a set of persons may, in appropriate cases, be extended to others who are identically situated, this is subject to recognised exceptions, including delay, laches and acquiescence. Those who seek to claim the benefit after long delay, merely upon noticing that others have succeeded, cannot as a matter of course demand similar relief. In *State of Uttar Pradesh v. Arvind Kumar Srivastava*, (2015) 1 SCC 347, this Court has explained these principles succinctly in the following portion:

“22. The legal principles which emerge from the reading of the aforesaid judgments, cited both by the appellants as well as the respondents, can be summed up as under.

22.1. The normal rule is that when a particular set of employees is given relief by the court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

22.2. However, this principle is subject to wellrecognised exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.”

10. We also consider it necessary to observe that the Bar has an important role to play in ensuring that litigation does not become endless. Learned counsel are expected to assist the Court by placing the full procedural history with clarity, and by drawing attention to orders which have attained finality and to binding precedent bearing on delay, laches, and maintainability. Counsel should, in appropriate cases, advise litigants against pursuing repetitive proceedings which, in substance, seek to reopen concluded issues. This is essential to preserve judicial time and to maintain the discipline of finality that the justice delivery system requires.

11. In view of the reasons recorded above, we are not inclined to entertain request for permission to file SLP and consequently the SLP deserves to be dismissed.

12. Accordingly, the Special Leave Petitions are dismissed.

13. Pending application (s), if any, shall stand disposed of.