



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 14155 of 2025

With

R/SPECIAL CIVIL APPLICATION NO. 17850 of 2025

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE NIRZAR S. DESAI

Approved for Reporting	Yes	No
	✓	

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 GOPIBEN BHAGVANBHAI PATEL & ORS.
 Versus
 STATE OF GUJARAT & ORS.
 =====

Appearance:

DEEPAK N KHANCHANDANI(7781) for the Petitioner(s) No.

1,10,11,12,13,14,15,16,2,3,4,5,6,7,8,9

MR BP GUPTA(337) for the Petitioner(s) No.

1,10,11,12,13,14,15,16,2,3,4,5,6,7,8,9

AAKASH GUPTA AGP for the Respondent(s) No. 1,2,3

MR UM SHASTRI(830) for the Respondent(s) No. 4

NOTICE SERVED BY DS for the Respondent(s) No. 5

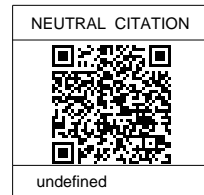
SIDDHARTH R KHESKANI(9483) for the Respondent(s) No. 5

CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI

Date : 04/05/2026

COMMON ORAL JUDGMENT

1. Learned Advocate Mr. Khanchandani submitted that both the petitions involve identical facts. The same is not disputed by learned Advocate Mr. U. M. Shastri, learned AGP Mr. Aakash Gupta, and learned Advocate Ms. Yukta Sumara appearing for learned Advocate Mr. Kheskani for the respondent – Ahmedabad Urban Development Consultancy.



2. As all learned advocates agreed that the present petitions are covered by the decision of this Court dated 09.12.2025 passed in Special Civil Application No. 13906 of 2025, the matters were taken up for final hearing. Hence, Rule. Learned AGP Mr. Aakash Gupta, learned Advocate Mr. U. M. Shastri, and learned Advocate Ms. Yukta Sumara for learned Advocate Mr. Kheskani waive service of Rule on behalf of the respondents.

3. As both the matters involve identical facts, which is not disputed by the learned advocates appearing for the respective parties, the facts are taken from Special Civil Application No. 14155 of 2025.

4. By way of the present petition, the petitioner has prayed for the following reliefs:

a) YOUR LORDSHIPS may be pleased to admit and allow this petition.

b) YOUR LORDSHIPS may be pleased to issue a writ of mandamus or any other appropriate writ, order and or directions by quashing and setting aside the inaction on the part of the respondent authorities in not granting



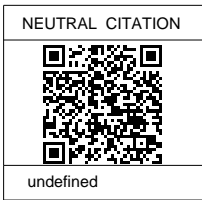
arrears of the 1st higher grade pay scale to the petitioners in the interest of justice

C) YOUR LORDSHIPS may be pleased to issue a writ of mandamus or any other appropriate writ, order and or directions by declaring that the Petitioners are entitled for grant of arrears upon revision as per 1st higher grade in the pay-scale of Rs.5,000-8,000 from the date of their entitlement i.e. upon completion of 9 years of service till the date of the Government Resolution dated 12/10/2022 AND FURTHER BE PLEASED to direct the Respondent Authorities to pay the same to the Petitioners in the interest of justice.

D) Pending admission, hearing and till final disposal of this Petition, YOUR LORDSHIPS may be pleased to direct the Respondent Authorities to grant the arrears to the Petitioners upon revision as per 1st higher grade in the pay-scale of Rs.5,000-8,000 from the date of their entitlement i.e. upon completion of 9 years of service till the date of the Government Resolution dated 12/10/2022

e) YOUR LORDSHIPS may be pleased to grant any other and further reliefs as may be deemed fit and proper in the interest of justice.

5. It is the case of the petitioners that all the petitioners are

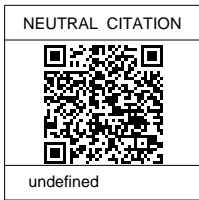


primary teachers appointed on 05.09.2011, except petitioner No. 4, who was appointed on 05.07.2010, in different primary schools in Botad District pursuant to the recruitment process of 2010–2011. It is submitted that all the petitioners have been discharging their duties sincerely and diligently.

5.1 As per the Government Resolution dated 16.08.1994, primary teachers in the pay scale of Rs. 1400–2600 were entitled to a higher pay scale of Rs. 5000–150–8000 (Grade Pay of Rs. 4200) upon completion of nine years of service.

5.2 Though the petitioners completed nine years of service during 2019–2020 and thereby became eligible for the first higher pay scale, the respondents did not extend the said benefit at the relevant time. The benefit was granted only after issuance of the Government Resolution dated 12.10.2022. However, arrears for the intervening period have not been paid to the petitioners. Hence, the grievance of the petitioners is only in respect of arrears to be paid to the petitioners.

5.3 According to Learned Advocate Mr. Khanchandani, the issue has been decided by this Court in Special Civil Application No. 4368 of 2020 and allied matters, wherein, by decision dated 20.02.2024, the respondents were directed to



pay arrears. It is submitted that the present petitioners are identically situated to the petitioners of the said case and are, therefore, entitled to the same benefits.

5.4 Learned Advocate Mr. Khanchandani further submitted that the aforesaid judgment dated 20.02.2024 was challenged by the State Government by way of Letters Patent Appeal No. 423 of 2025, which came to be dismissed by the Division Bench of this Court by order dated 27.03.2025. It is further submitted that the petitioners in Special Civil Application No. 4368 of 2020 have already been granted the benefits as directed therein. Therefore, the present petitioners are also entitled to the same relief.

6. Having regard to the overall situation, more particularly since the petitioners are stated to be identically situated to the petitioners of decision dated 20.02.2024 and since the decision of this Court has attained finality, to this Court, the issue would be squarely covered by the above referred decision. Hence, paras 7, 8, 8.1, 8.2, 9, 9.1, 10, 10.1, 11, 11.1, 12, 12.1 and 13 are reproduced herein below for benefit.

“7. The only question which arises for consideration of this Court is as to whether the respondent - State was



justified in restricting the grant of benefits of higher pay-scale in the pay-scale of Rs.5,000-8,000 revised to Rs.9,300 – 34,800, by directing the period from the date of entitlement to the date of the Government Resolution dated 16.8.1994 as being treated notionally. In this regard it would appear that the prayers made by the petitioners for grant of arrears are being opposed by the learned AGP on the following counts:-

(i) That there being no promotional post available in the Municipal School Board in which the petitioners are working.

(ii) That there being no averment in the petition and no confirmation by the concerned School Board that there existed a post of Education Inspector in the set up of the concerned School Board.

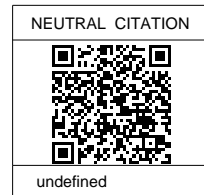
(iii) That the petitions are being delayed.

8. In the considered opinion of this Court, all the objections taken by learned AGP, are absolutely misconceived and goes beyond the decision of the State Government in the Government Resolution dated 12.10.2022. A perusal of the Government Resolution more particularly, the recital part of the Government Resolution clearly reveals the reason behind its formulation. It appears that the State Government was conscious of the fact that there existed a serious anomaly in the matter of grant of first higher grade to Primary Teachers in various



Municipal School Boards. It would appear that on account of there being no promotional post of Education Inspector available; therefore, seniors working in a particular Municipal School Board would be drawing salary much less than the salary being drawing by the juniors working in a different Municipal School Board where there was a promotional post of Education Inspector available. In the considered opinion of this Court, being conscious of the anomaly, the State Government had come out with a Government Resolution and whereas the very purpose of the Government Resolution was to ensure that even if there were no post of Education Inspector in the set up of the Municipal School Board concerned then also, the Primary Teachers would be entitled to higher grade in the scale of Rs.5,000-8,000.

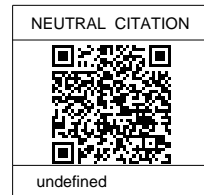
8.1 In the considered opinion of this Court, to state that the payment of higher grade in the scale of Rs.5,000-8,000 is inextricably linked to availability of promotional post, is completely fallacious. In the considered opinion of this Court, if there existed a promotional post of Education Inspector, which carried pay-scale of Rs.5,000-8,000, the petitioners and all other similarly situated persons would have been automatically entitled to revision in 1st higher grade in the pay-scale as carried by the post of Education Inspector and whereas there would not have been any issue with regard to the entitlement of the petitioners and such similarly situated Primary Teachers for revision in the higher grade in the pay-scale of Rs.5,000-8,000. The very reason for which the



petitions have been filed from the year 2009 to the present petition was that on account of non-existence of post of Education Inspector in the set up of the concerned School Board, resulting in the Primary Teachers being discriminated in the matter of revision of salary in higher grade i.e. wherever a post of Education Inspector was available, revision would be in the pay-scale of Rs.5,000-8,000 and wherever such post was not available, then revision would be in the pay-scale of Rs.4,500- 7,000.

8.2 In the considered opinion of this Court, since it was to resolve the above anomaly that the State Government had passed the resolution, thereafter the learned AGP on behalf of the State cannot be heard to argue that the provision of arrears should be contingent upon the availability of the post of the Education Inspector with the concerned School Board.

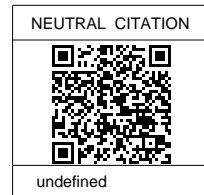
9. As a matter of fact, a perusal of the Government Resolution dated 12.10.2022, while it holds that from 1.1.1996, to ensure equality amongst Primary Teachers in Municipal School Boards, benefit of 1st higher grade would be in the pay-scale of Rs.5,000-8,000 revised to Rs.9,300 – 34,800 subject to certain conditions and whereas while the condition No.2 states about the period from the date of entitlement to the date of Government Resolution to be treated as notionally yet, one does not find the Government Resolution laying down any condition that in case post of Education Inspector is available in the set up of the concerned Municipal School



Board, then the Primary Teacher would be entitled for the arrears from date of entitlement to the date of Government Resolution.

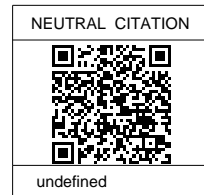
9.1 In the considered opinion of this Court, to state that the arrears would be granted to only such School Boards where the post of Education Inspector was in existence, would be going against the grain of the Government Resolution itself and would result in a paradoxical situation same. To clarify on one hand the Government comes out with a resolution to rectify an anomaly in the payment of 1st higher grade between Primary Teachers in School Board where the post of Education Inspector was available and where such a post was not available. Having come out with a policy now to state that payment of arrears would be dependent on availability of the promotion post of Education Inspector would amount to perpetuating the same anomaly which was sought to be rectified. The paradox being too obvious to be misused.

10. As a matter of fact, it would appear that even the State has not implemented the Government Resolution in its true prospective more particularly, considering the fact that the State had passed an order dated 20.04.2023 i.e. after similarly situated Primary Teachers had preferred writ petitions before this Court being SCA No.5849 of 2023 and allied matters i.e. preferred by the Primary Teachers in the Municipal School Board at Surat, who had raised similar grievance and whereas vide order dated 20.04.2023, the State had deemed it appropriate to



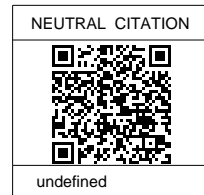
hold that the said Primary Teachers working with the Municipal School Board, Surat would be entitled more particularly, since the promotional post of Education Inspector was available in the set up of the Municipal School Board, Surat. In the considered opinion of this Court having come out with the resolution, which granted benefit of higher grade in the pay-scale of Rs.5,000-8,000, from 1.1.1996, irrespective of availability of any post of Education Inspector, it was not open for the State to have restricted the grant of benefit of arrears to only such Primary Teachers where the post of Education Inspector existed. For the above reasons, the stand of the learned AGP cannot be countenanced and the same is rejected.

10.1 It would be required to be reiterated at this stage that the intent of the Government Resolution dated 12.10.2022, if read carefully, was to provide for exception to the general rule and whereas it would appear that the same was probably based on the observations of learned Co-ordinate Bench in the decision dated 26.9.2017 in SCA No. 13687 of 2009 and allied matters to ensure that there is no discrimination amongst Primary Teachers working in School Boards with different Municipalities, based upon availability of higher post, of Education Inspector, the Government Resolution, inter-alia, envisaged that after 1.1.1996, payment of salary in the higher grade, would be at the rate of Rs.5,000-8,000 and whereas the Government Resolution does not restrict the revision to only such School Boards where the post of Education Inspector was available.



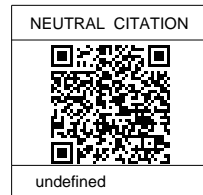
11. Insofar as reliance on decision of the Hon'ble Division Bench in Letters Patent Appeal No.4339 of 2020 dated 16.09.2020 is concerned, while it is attempted to be stated that facts of the present case and facts of the case before the Hon'ble Division Bench were similar, to this Court it does not appear to be so. In the considered opinion of this Court and in the facts of the case before the Hon'ble Division Bench, it would appear that Junior Clerks, who had the post of Senior Clerks available in their establishment, were requesting for grant of higher grade scale in the cadre of Head Clerk and whereas the Hon'ble Division Bench had, inter-alia, observed that as per Clause 3(3) of the Government Resolution dated 16.08.1994, the higher grade would be available in the pay-scale of the post of Senior Clerk i.e. the available higher post in the set up and not to that of Head Clerk. Thus, in the considered opinion of this Court, on account of the facts in the present case being different then the facts before the Hon'ble Division Bench, the observation of the Hon'ble Division Bench in the decision dated 16.9.2020 would not advance the cause of the State, as submitted by the learned AGP. Again the State having passed the Resolution dated 12.10.2022, accepting the entitlement of the petitioners, reliance placed upon the decision of the Division Bench appears to be absolutely misplaced.

11.1 Insofar as the aspect of delay as sought to be explained in the affidavit-in- reply filed by the Under Secretary is concerned, it requires to be mentioned i.e.



the Government Resolution itself envisages the entitlement of the Primary Teachers to revision in the 1st higher grade with effect from 1.1.1996. The only grievance was with regard to the payment of arrears from the date of entitlement till the date of the issuance of the Government Resolution. While the respondent State may or may not be justified in raising objection with regard to delay in filing the petition before the GR dated 12.10.2022 came to be passed, yet in the considered opinion of this Court the contention with regard to delay cannot be countenanced after the State has passed the GR dated 12.10.2022. The said GR having accepted the entitlement of the petitioners for the benefit of first higher scale in the scale of Rs.5,000-8,000. The only challenge is with regard to the entitlement of the petitioners to the arrears which as per the GR would be available only notionally. Thus, in the considered opinion of this Court, upon the GR dated 12.10.2022 being issued and the grievance was being with regard to the arrears being treated notionally, the petition is not barred by delay given the cause of action would relate to the GR dated 12.10.2022 itself.

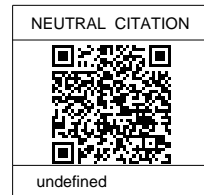
12. Reverting back to the substantive issue, perusal of the Government Resolution does not reveal any reason whatsoever as to the State taking a stand as regards non-payment of arrears to the beneficiaries. On the contrary, perusal of the recitals as noted hereinabove reveals that one of the primary reasons, which weigh with the State was the fact that on account of the anomaly, as explained hereinabove, Junior Teachers in a set up where



the promotional post of Education Inspector was available upon revision were being paid salary in the higher pay-scale of Rs.5,000-8,000 whereas seniors in a set up where the promotional posts were not available were being paid salary in the scale of Rs.4,500-7,000 i.e. lower than the scale in which the juniors were being paid. It was to ensure that such an anomaly is removed that Government Resolution had been promulgated by the State and in the considered opinion of this Court, when the State was conscious of the fact that on account of the anomaly, there would be dissatisfaction amongst seniors, who would not be entitled to payment of higher grade in the scale of Rs.5,000-8,000 only on account of the Municipal School Board not having the post of Education Inspector in its set up, then it was incumbent upon the State to have ensured that the Teachers like the present petitioners be paid arrears of salary.

12.1 Furthermore it clearly appears that the Government Resolution fails to provide any rationale for the withholding of arrears, and considering the lack of merit in the argument regarding delay as evidenced in the affidavit-in-reply, the submissions made by the learned AGP regarding delay are untenable and are thus dismissed.

13. In the considered opinion of this Court, based on the aforementioned discussion, observations, it would appear that the Government Resolution dated 12.10.2022 insofar as it restricts payment of arrears, is required to be interfered with. Hence, the following directions are



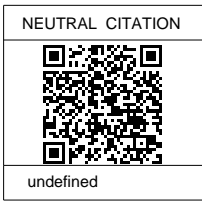
passed:-

(i) The present petition is hereby allowed.

(ii) Government Resolution dated 12.10.2022 is interfered with insofar as it states about treating the period between the date of entitlement till the date of Government Resolution required to be treated notionally.

(iii) The petitioners are declared to be entitled for grant of arrears upon revision as per 1st higher grade in the pay-scale of Rs.5,000-8,000 i.e. from the date of their entitlement till the date of the Government Resolution. Arrears to be calculated and paid to the petitioners within a period of 12 weeks from today. In the facts of the present case, more particularly since it relates to a policy decision by the State, where an exception is made to the general rule, therefore, in the considered opinion of this Court, the petitioners are not entitled to any interest upon the arrears. The petition stands disposed as allowed. Rule made absolute to the above extent.”

7. Considering the directions issued by this Court at para 13 as above, more particularly on basis of discussions preceding the said directions, it is declared that the petitioners are entitled for grant of arrears upon revision as per the first higher grade



of pay-scale of Rs.5000 – 8000 i.e. from the date of their entitlement till the date of the Resolution. The arrears shall be calculated and paid to the petitioners within a period of 12 weeks from the date of receipt of this decision.

8. With the above directions, the present petitions stand disposed of as allowed. Rule is made absolute to the aforesaid extent. Direct service is permitted.

BHAVIN MEHTA

(NIRZAR S. DESAI,J)