

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 11675 of 2026

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VYAPTIBEN RAMESHBHAI PRAJAPATI

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR AS ASTHAVADI(3698) for the Petitioner(s) No. 1

**MR SAHIL TRIVEDI ASST. GOVERNMENT PLEADER for the Respondent(s)
No. 1,2**

MR. HEMANG S TRIVEDI(10045) for the Respondent(s) No. 3

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL

Date : 03/09/2026

ORAL ORDER

1. Draft amendment is granted. To be carried out during the course of the day.

2. Heard learned advocate Mr. A.S.Asthavadi for the petitioner, learned AGP Mr. Sahil Trivedi for the respondent – State and learned advocate Mr. Hemang Trivedi for respondent No.3 – District Primary Education Officer.

3. The grievance raised by the petitioner in the present petition is as regards the respondents not ensuring that students who are willing to take admission in the school, in

the academic year 2026-2027, not being appropriately admitted and as a result of which, the petitioner being declared excess and transferred from the present school. The facts, prima facie appearing to be very gross inasmuch as the petitioner, under an impression that the petitioner may be declared surplus on account of lack of students, had attempted to ensure that eligible students, are admitted to the school, more particularly, the students being eligible under the RTE Act and whereas, the grievance raised being that though the petitioner had tried to admit atleast 26 students, the Principal was not cooperating with the petitioner which had resulted in the eligible students not getting admitted and on the other hand, the petitioner, apprehending that she would be declared surplus. It would also appear that pursuant to filing of this petition, the respondent No.3, in a prima facie excess of jurisdiction, has attempted to conduct an inquiry and whereas statements of some of the parents have been recorded, *inter alia* showing that they did not give any affidavits to the petitioner, though at this stage it would be also pertinent to note that no affidavits, of parents, have been placed on record of this Court. It also appears that vide order dated 01.09.2026, the petitioner is declared as excess.

4. As against the same, affidavit-in-reply filed by the District Primary Education Officer also reflects that pursuant to the communication of the petitioner dated 28.07.2026 to the DPEO, giving list of 26 students, around 14 students have been admitted, to the school in question and whereas all the dates of the admissions, are either after the date of the representation of the petitioner or after the filing of the present petition. The said aspect, clearly indicates that the allegation of the petitioner that there were eligible students, who were not getting the admission in the school in question, appear to be prima facie correct.

5. On the other hand, it reflects that in spite of addition of 14 students, the total strength of the primary section of the school, has gone only up to 397, whereas if the strength had reached 401, the petitioner would not be required to be declared as surplus. It would prima facie appear to this Court that the petitioner, at this stage, requires to be commended and encouraged inasmuch as, had the petitioner received appropriate support at the appropriate stage, much more than the petitioner, children, who were entitled to receive benefit under the RTE, could have been admitted to the school and could have had a chance to improve their lives. Instead of the same, the stand of the respondent, more particularly,

respondent No.3 has ensured that atleast 12 of the 26 students named by the present petitioner could not get admission in the school in question in this academic year. Again another way of looking at the issue would be that is the 26 students, as alleged by the petitioner had been given admission, that is the 14 students already admitted and 12 who were not admitted, then the strength of the primary section would have increased beyond 401 and the petitioner would not have been required to be declared surplus.

6. Considering such a position, more particularly, since the petitioner finds herself in the present unenviable position, on account of the adamant and unnecessarily adversarial stand taken by respondent No.3, at this stage, to this Court, protection is required to be granted.

7. Hence, issue **Notice** to the respondents returnable on **01.10.2026**.

8. Learned AGP waives service of notice on behalf of respondent – State and learned advocate Mr. Hemang Trivedi waives service of notice on behalf of respondent No.3

9. By way of interim relief, it is directed that the communication dated 01.09.2026 declaring the petitioner surplus shall not be acted upon.

10. Direct service is permitted.

(NIKHIL S. KARIEL,J)

NAIR SMITA V./195-DB