

Reserved On : 28/07/2026

Pronounced On : 25/09/2026

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 5211 of 2017**

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AMRATLAL NARENDRABHAI VIZODA

*Versus*

STATE OF GUJARAT &amp; ANR.

**Appearance:**

MR. RADHESH Y VYAS(7060) for the Petitioner(s) No. 1

MS. DHRUTI PANDYA, AGP for the Respondent(s) No. 1

IG JOSHI(8726) for the Respondent(s) No. 2

LAW OFFICER BRANCH(420) for the Respondent(s) No. 2

RULE SERVED for the Respondent(s) No. 1

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**CORAM:HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA**

and

**HONOURABLE MR.JUSTICE J. L. ODEDRA****CAV JUDGMENT****(PER : HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA)**

[1] The petitioner, a Judicial Officer, has filed this petition challenging the order by which he has been dismissed from service.

[2] On 15.05.2008, the petitioner was suspended in view of the vigilance inquiry that had been initiated against him while he was working as Judicial Magistrate First Class (JMFC) at Surat, in view of the allegations of grave misconduct and conduct unbecoming of a Judicial Officer.

[3] This order of suspension was revoked on 10.04.2009 with effect from 13.08.2008. However, on the same day, a fresh order of suspension was passed against him.

[4] On 24.04.2009, a charge-sheet was issued against the petitioner. In this charge-sheet, 12 charges were levelled against the petitioner. For the purpose of this writ petition, only Charge Nos.I, II, IV and VII, which have been held to be partly proved or provided against the petitioner would be relevant, and the same are reproduced hereinbelow:-

“(I)

*While performing your judicial duty, you were indulged in corrupt practice and you were collecting the amount of Rs.5000/- to Rs.50,000/- for passing favourable orders through agents. You were also directly contacting the litigants and after taking bribe, you used to pass the orders in favour of such litigants.*

*You have four mobile phones of different make with different SIM Cards. Out of the said four mobile phones, three mobile phones are found in the name of third party. The details of mobile phones is as under:*

| Sr. No. | Make               | Mobile Number | In who's Name, the SIM Card is purchased.                    |
|---------|--------------------|---------------|--------------------------------------------------------------|
| 1.      | China Made Handset | 9428164173    | Advocate Ms. Pravinaben Kesubhai Patel, Resident of Vandsa.  |
| 2.      | L.G.Company        | 9328075895    | Yourself.                                                    |
| 3.      | Tata Indicom       | 9275102710    | Indrabhai S. Thakore, Resident of Surat                      |
| 4.      | L.G.Company        | 9426750010    | Ishwarbhai, Resident of Umapada, Taluko-Ahwa, District:Dang. |

*You are keeping three Benami mobile phones with malafide intention. You were directly contacting litigants through Benami mobile phones and after settlement with the litigants, you were passing orders in their favour after taking bribe from them.*

*You posses mobile phone bearing No. 9428164173, which is in the name of Ms. Pravinaben Patel, a practicing Advocate at Vansda. She was using this mobile phone. When you were serving as J.M.F.C. at Vansda, you demanded the said mobile phone through her brother Rajendrakumar Kesavbhai Patel and therefore, she had given this mobile to you and since then you are using the same and till date, it is not returned by you. Ms. Pravinaben is using mobile phone no. 9428164504, which is in the name of her sister Hansaben. It is found that you have, through your mobile phone no: 9328075895, made 6444 total calls during the period from 01/04/2007 to 31/08/2007 and 186 calls to Ms. Pravinaben from 25/06/2007 to 8/03/2008. The record shows that you are in close contact with Ms. Pravinaben, a practicing lawyer. Thus, you have accepted this mobile phone by way of illegal gratification from Ms. Pravinaben Patel, a practicing Advocate, and thereby, you have acted in a manner of unbecoming of a judicial officer. You are also keeping Tata Indicom mobile no. 9275102710. The said mobile is also in the name of Mr. Indrabhai S. Thakore. On inquiry it revels that the said Indrabhai is sick since last 5 years and has gone to Allahabad and he has never used any mobile phone.*

*As per information submitted by you, another mobile phone bearing No.9426750010 is in the name of your wife Nirmalaben. As such this mobile is in the name of late Ishwarbhai, resident of Umarpada. The way in which, you are keeping Benami mobile phones, shows your malafide intention. The conduct of yours shows that you have acted in a manner of unbecoming of a Judicial Officer.*

(II)

*You being a judicial officer must be aware of the provisions of the Rule 19 of Gujarat Civil Service (Conduct) Rules, 1971 by which, it is made compulsory for every Government servant to report to the prescribed authority, within one month on and from the date of every transaction entered into by him either in his own name or in the name of a member of his family in respect of movable property if the value of such property exceeds Rs.25,000/- in case of a Government servant holding any Class-I post. You have not observed this rule and though several transactions had been entered into by you for purchase and sale of movable properties, you have never intimated the Hon'ble High Court and thereby, you have violated the Conduct*

*Rules. When you join judiciary, you were owner of one Maruti 800 Car which was sold by you in the year 2002 when you were at Talala, District:-Junagadh. Thereafter, you also purchased Maruti 1000 Esteem Car bearing no. GJ-5-N-1879 directly from the owner at Talala, which was also sold by you in the year, 2004 when you were serving at Vansda. Thereafter, again you purchased another Maruti 1000 Car from Royal Motors, Bardoli through broker Dilipbhai and the said car was also sold by you: Thereafter, again you purchased another Tata Indigo L.S.Motorcar bearing No.GJ-15-DD-1327 and also Motor Cycle bearing No.GJ-15-MM-5786. Though, all the above referred transactions of sale and purchase of the vehicles were entered into by you, you have never intimated the Hon'ble High Court about the same and thereby, you have committed an act of misconduct. It also reveals that Tata Indigo L.S.Car and also Motor Cycle purchased by you is still not transferred in your name and in that way it is also Benami transactions entered by you. Thus, the way in which you have entered into the transactions of the sale and purchase of the vehicles and also acquired Benami properties shows that you have committed an act misconduct and also dereliction in discharging your duties as a Judicial Officer.*

(IV)

*You are holding a Saving Account No. 01190009359 with the State Bank of India, Vansda, District Navasari. On perusal of statement of your account for the period from 16/06/2004 to 01/09/2006, it is found that there are few doubtful entries about the deposit and withdrawal of money. On verification of the statement, it seems that you had taken personal loan of Rs.35,000/- from the bank on 21/12/2005. But the same has not been reported to the Hon'ble High Court by you and thereby, you have violated the provisions of Rule 16, Sub Rule 5 & 6 of the Gujarat Civil Service. (Conduct) Rules, 1971 and thereby, you have committed an act of misconduct*

(VII)

*420 Criminal Cases No 2144/95 & 2145/95 were filed by the complainant U/S. 138 of Negotiable Instrument Act and 420, 323, 504, 506 (2) of I.P.C. in your Court and verification of the complainant was taken on 29/03/95. You passed an order to issue summons U/S. 138 of N.I.Act and of I.P.C. In this case the Ld. Judge Mr.B.M.Modi had passed an order to proceed in the*

*case as a warrant triable. In this case, you, without hearing the Ld.Advocate for the accused ordered that the case has not been made out U/S. 420 of I.P.C. and hence ordered to acquit the accused and to proceed further in the matter. U/S. 138 of N.I. Act. In the same way in Criminal Case No. 2145/95 also you had taken the plea of the it is summons thereafter, it was cancelled by you. Thus, by treating the complaint as summons triable, you had tried to favour the complainant. Though, both these cases were warrant triable, you proceeded as if it is summons triable and acquitted the accused for the offence punishable U/S. 420 of T.P.C. and thereafter, with an intention to disposed off the case early and punished the accused, proceeded U/S. 138 of N.I.Act. The way in which, you have proceeded in the matter shows your malafide intension."*

[5] On 24.09.2009, the petitioner submitted his defence statement, in which he principally denied the charges levelled against him.

[6] An inquiry was conducted, in which 14 witnesses were examined on behalf of the respondent, and documentary evidence was also produced.

[7] On behalf of the petitioner, five witnesses were examined, and he also produced certain documents.

[8] The Inquiry Officer, on considering the evidence that was adduced, came to the conclusion that Charge Nos. I and VI were partly proved, while Charge Nos. II, IV and VII were proved.

[9] A copy of the inquiry report was furnished to the petitioner, and he was also issued a second show-cause notice on 02.07.2014.

[10] The petitioner submitted a reply, and the Standing Committee resolved that a committee consisting of two Judges be constituted to hear the petitioner personally.

[11] The two Judges' Committee thereafter heard the petitioner in person and made a recommendation to the Standing Committee that the petitioner should be imposed with the maximum punishment of dismissal from service. This recommendation of the two-Judge Committee was accepted by the Standing Committee, and the matter was thereafter placed before the Full Court on 15.03.2016.

[12] The Full Court resolved to accept the report of the Committee, and the recommendation that the petitioner should be dismissed from service, and accordingly made a recommendation to the Government. The Government accepted this recommendation and issued a notification dated 23.05.2016 dismissing the petitioner from service with immediate effect.

[13] As a consequence, the petitioner has presented this writ petition.

[14] At the very outset, the scope of interference by the High Courts under Article 226 of the Constitution of India in respect of departmental proceedings is well settled. Normally, the High Courts, in exercise of their power under Article 226 of the Constitution of India, will not sit as an appellate court and re-appreciate the evidence.

[15] The High Courts will also not normally interfere with findings of fact recorded by the Inquiry Officer and examined by the Disciplinary Authority. The High Court would also refrain from interfering with the punishments imposed unless they are disproportionate and shock the conscience of the Court.

[16] Learned counsel appearing for the petitioner placed reliance on the following cases, which reiterate the above principles, in support of his arguments:-

- (i) In the case of ***M. V. Bijlani versus Union of India & others*** reported in **(2006) 5 SCC 88**.
- (ii) In the case of ***Yoginath D. Bagde versus State of Maharashtra and another*** reported in **(1999) 7 SCC 739**.
- (iii) In the case of ***Kamleshkumar Kewalram Alwani versus High Court of Gujarat and another*** decided in Special Civil Application No.18781 of 2016 on 07.03.2024.

[17] Similarly, learned counsel appearing for the respondent placed reliance on the following cases, which also reiterate the above principles in support of his arguments:-

- (i) In the case of ***Pravin Kumar versus Union of India and others*** reported in ***(2020) 9 SCC 471***.
- (ii) In the case of ***Union of India and others versus Dilip Paul*** reported in ***2023 SCC Online SC 1423***.
- (iii) In the case of ***R. C. Chandel versus High Court of Madhya Pradesh and another*** reported in ***(2012) 8 SCC 58***.
- (iv) In the case of ***K. M. Bhut versus High Court of Gujarat and another*** passed in Special Civil Application No.10772 of 2009.

[18] The case of the petitioner will, therefore, have to be examined in the context of this legal position.

[19] The Committee comprising of two Judges has, on appreciation of the evidence, concurred with the view taken by the Inquiry Officer that Charge No. I was partly proved. The said charge alleged that the petitioner was collecting amounts ranging from Rs.5,000/- to Rs.50,000/- for passing favourable orders through his agents. The charge also stated that the petitioner was having four mobile phones of different makes with different SIM cards, and out of the four mobile phones, three mobile phones were found to be owned by a third party and, thus, it was clear that the petitioner was having three

benami mobile phones with a *mala fide* intention. It was also alleged that he was using these mobiles to contact the litigants and settle a bargain.

[20] The said charge specifically stated that the petitioner was possessing mobile phone No.9428164173, which was registered in the name of Ms. Pravinaben Patel, who happened to be a practicing advocate at Vadodara and was using the said mobile.

[21] It was alleged that when the petitioner was serving at Vandsa as JMFC, he had demanded the said mobile from her brother, and she had given the same, and ever since, she had been using it. It was also alleged that Ms. Pravinaben Patel was using this phone, which contained a SIM which was registered in the name of her sister, Hansaben.

[22] It was also alleged that through this mobile phone number, viz., 9328075815, he had made, in all, 6,444 calls for a period of four months, and 188 of these calls were to this Ms. Pravinaben during the period 25.06.2007 to 08.03.2008, and he was thus in close contact with her, who was a practicing advocate. It was alleged that he had accepted the mobile phone by way of illegal gratification from Pravinaben Patel, and had, therefore, acted in a manner unbecoming of a Judicial Officer.

[23] The Committee has affirmed the findings of the Inquiry Officer that there is no evidence that the petitioner was using

the mobile phone for demanding and getting bribes from the litigants. It has, however, come to the following conclusion:-

*“20. The inquiry officer (sic. delinquent officer) has termed the action of the judicial officer using mobile instrument with Sim card of Ms. Pravinaben Patel as illegal gratification. In absence of any evidence that same was accepted for granting a favour to the advocate, we may not categorise this instance as one of the illegal gratification. Nevertheless, the action of the judicial officer to receive a mobile phone instrument with SIM card from advocate practicing at the same station where he was posted as judicial officer was one of accepting an undue favour and of highest impropriety. His familiarity with the judicial officer demonstrated in the form of his making as many as 186 calls between 25.06.2007 and 08.03.2008, would further add to his questionable behaviour. These events when seen together make the delinquency and misconduct of the judicial officer extremely serious. the Charge article-I is thus partially proved.”*

[24] The Committee has, therefore, concluded that his familiarity with an advocate and his making of 186 calls, coupled with the fact that he had received a mobile phone with a SIM card from a practicing advocate, was indicative of his accepting undue favours, and his judicial conduct was improper. The Committee has, therefore, agreed with the Inquiry Officer that this amounted to serious misconduct.

[25] It is sought to be argued that the petitioner was only using the SIM card of Pravinaben Patel when he was posted at Surat, and he was not using it when he was posted at Vandsa-Ahwa where she was practicing. It is also argued that Pravinaben Patel had never appeared before him, and therefore, there was no question of him doing any undue favor to the said Pravinaben Patel.

[26] In our view, the Committee and the Disciplinary Authority was absolutely justified in coming to the conclusion that the conduct of the petitioner was unbecoming of that of a Judicial Officer.

[27] If a Judicial Officer decides to accept a phone from a practicing advocate and it is established that he was communicating with the practicing advocate over a certain period of time, that, by itself, would be improper. A Judicial Officer should not associate himself with practicing advocates and has to maintain a distance from the advocates to prevent any impression of impropriety.

[28] If the evidence indicated that he had actually secured the phone from a practicing advocate and was using the same, that, by itself, clearly amounts to misconduct. We are, therefore, of the view that the finding on the first charge that it was partly proved cannot be found fault with.

[29] The second charge against the petitioner was that under the rules, he was required to inform the Prescribed Authority within a month of every transaction which has been entered into by him, either in his own name or in the name of his family members, in respect of any movable property, the value of which exceeded Rs.25,000/-.

[30] The Committee has found that the petitioner, at the time of joining the Judiciary, was owning one Maruti 800 car, which he sold in the year 2002, and he had thereafter purchased a Maruti Esteem car, which was also sold by him in the year 2004 when he was at Vandsa. It is found that he had purchased another Maruti 1000 car from Royal Motors through a broker, which was also sold, and again he had purchased a Tata Indica car and a motorcycle and none of these transactions had been intimated to the Prescribed Authority. It was also found that the Tata Indica car and the motorcycle that he had purchased were not transferred in his name, and thus it was clear that he had entered into benami transactions. The exact reasoning of the Disciplinary Authority reproduced hereinbelow:-

*"22. The delinquent had again in his statement in writing at exh.136, admitted that he had purchased Tata Indica Car and a motorcycle and had not intimated to the High Court. He had purchased car for Rs.2 lacs. The motorcycle he had purchased one and half years back. When he had joined service, he owned a Maruti car which is sold in the year 2002 and purchased Maruti Esteem which he sold in the year 2004 when he was transferred to Vandsa and purchased another Maruti 1000 which he had substantially sold recently. These statements were substantially confirmed by him in another statement dated 29.3.2008 (exh.137). Nothing has been brought on record to suggest that he had ever intimated to the High Court about any of these purchases or sales. His defence before the inquiry officer however, was that the ownership of the car was always on record since he was claiming petrol allowance.*

*23. The inquiry officer correctly discarded such a defence. Mere claiming of petrol allowance by mentioning particular car number would not satisfy the requirement of disclosure of sale and purchase of movable property in excess of prescribed limit. Sub-rule(3) of Rule 19 of the Gujarat Civil Services (Conduct) Rules 1971 clearly provides that every Government servant*

*shall report to the prescribed authority within one month and from every date of transactions entered into by him either in his own name or in the name of a member of his family in respect of movable property, if value of such property exceeds the prescribed limit. Thus as per this Rule, it was the duty of the delinquent officer to intimate such sales and purchases which is established from the record that he had not done. This was not an isolated oversight or a slip on part of the judicial officer but consistent disregard to the statutory requirement. This charge was therefore, duly established."*

[31] In respect of this finding, it is sought to be argued that the intimation was given by the petitioner belatedly and not within the prescribed period of one month. It is argued that the intimation was given prior to the suspension of the petitioner and prior to the issuance of the charge-sheet. It is, therefore, sought to be argued that he was under the *bona fide* impression that since he had reported the matter to the learned Principal Judge and had also claimed petrol allowance, and was also being given the petrol allowance, he was not required to make a separate intimation.

[32] In our view, if there are Conduct Rules which clearly specify that the acquisition of any movable property exceeding Rs.25,000/- is to be reported, the petitioner, being a Judicial Officer, the same was required to be complied without any demur and promptly. The petitioner, being a Judicial Officer, cannot contend that the acquisition of a movable property by him could be inferred by the Prescribed Authority because he was claiming petrol allowance.

[33] In our view, the petitioner basically does not dispute the charge that he had not intimated the purchase of the motor vehicles within the prescribed period and, therefore, the finding that Charge No. II was proved cannot be found fault with.

[34] As regards Charge No.IV, the allegation was that the petitioner had taken a personal loan of Rs.35,000/- from the bank on 21.12.2005 but had not reported the same to the High Court and had thereby violated the Conduct Rules.

[35] The Inquiry Officer has noticed that the petitioner did not dispute this particular fact that he had taken a personal loan and had only tried to explain this incident by stating that his brother was suffering from a serious ailment, i.e., cancer, and for treating this ailment, he was in need of money and had been constrained to take a loan from the bank. The Inquiry Officer has also noticed that the petitioner admitted that he had not intimated the High Court about his securing a personal loan. The Inquiry Officer has also noticed that this loan was taken under some Mega Bonanza Scheme of the bank, and therefore, the explanation submitted by him could not be accepted.

[36] In our view, as noticed regarding the earlier charge of not reporting the acquisition of a motor car, if the rule required the reporting of securing a loan, the same would have to be scrupulously followed. Assuming that there was an emergency, and the petitioner required the loan, he could have intimated

the High Court at least thereafter and sought post-facto approval for the same.

[37] In our view, since the petitioner does not dispute this particular transaction, the Inquiry Officer was justified in coming to the conclusion that this charge was proved, and the Full Judge Committee was also justified in affirming the finding of the Inquiry Officer.

[38] As far as the second charge is concerned, which was to the effect that the petitioner had initially taken the view that certain cases were warrant cases but subsequently took the view that they are summons cases, and proceeded to acquit the accused, thereby indicating that he wanted to favour the accused, is concerned, the Inquiry Officer has noticed that there was an undue haste shown by the petitioner in passing the orders, and as per the Rojkam, no hearing had taken place, and yet he had passed an order. The Inquiry Officer has noticed that the procedure adopted by the petitioner was clearly improper, and therefore, the said charge has also been established.

[39] In our view, the laying of such a charge itself would be improper, fundamentally because the petitioner could not have been proceeded against for passing a wrong judicial order or for not following the prescribed procedure while discharging his judicial functions. We are therefore of the view that though there was material to indicate that the procedure adopted by

the petitioner was incorrect, the charge itself could not have been laid against the petitioner.

[40] However, we are satisfied that in respect of the other three charges, there was clear and cogent evidence indicating that the petitioner was guilty of the misconduct alleged against him, and the Two Judge Committee as well as the Full Court were therefore justified in coming to the conclusion that the charges against the petitioner had been established.

[41] We are also of the view that the High Court was justified in coming to the conclusion that the punishment of dismissal was the only appropriate punishment having regard to the conduct of the petitioner, especially the conduct of possessing multiple mobile phones and communicating with a practicing lady advocate. The charges, if they are read in conjunction, fundamentally reflects a lack of integrity on the part of the petitioner, who is a Judicial Officer, and therefore, the only punishment that could have been imposed on him was that of dismissal.

[42] The reliance placed on para 25 of the judgment rendered by the Hon'ble Supreme Court in the case of *M. V. Bijlani (supra)*, can be of no avail. In the said case, the Supreme Court has noticed that in a departmental proceeding, the charges are not required to be proved like a criminal trial, and the proceedings being quasi-criminal in nature, there must be some

evidence to prove the charge. In the instant case, as already noticed above, the charges of possessing more than one mobile phone, non-reporting of acquisition of a car, and securing of a personal loan are, in fact, admitted, and therefore, this reliance can be of no avail.

[43] The reliance on the judgment rendered by the Hon'ble Supreme Court in the case of *Yoginath D. Bagde (supra)*, will also be of no avail, since the Hon'ble Supreme Court has observed therein that an honest and strict judicial officer will have to be protected, since he is likely to have adversaries in the moffussil courts, and acting upon trifling complaints would be improper. In this case, the charges alleged against the petitioner and which were essentially admitted by the petitioner clearly indicate that they are not trifling complaints against the petitioner, but complaints which proved that he lacked integrity.

[44] We, therefore, find no reasons to entertain the writ petition. The writ petition is, therefore, dismissed. Rule is discharged.

**(N.S.SANJAY GOWDA, J.)**

**(J. L. ODEDRA, J.)**

DHARMENDRA KUMAR