

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 3330 of 2022

With

R/SPECIAL CIVIL APPLICATION NO. 3705 of 2022

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NIRBHAYSINH VIJAYSINH RAULJI

Versus

STATE OF GUJARAT

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Appearance:

SUDHANSHU A JHA(8345) for the Petitioner(s) No. 1,2,3,4

MR.UTKARSH SHARMA, AGP for the Respondent(s) No. 1

MR CHAITANYA S JOSHI(5927) for the Respondent(s) No. 2

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CORAM:HONOURABLE MR. JUSTICE BIREN VAISHNAV

Date : 26/08/2022

COMMON ORAL ORDER

1. In these petitions under Article 226 of the Constitution of India, the petitioners are aspirants for the posts under the Gujarat Administrative Service Class-I, Gujarat Civil Services Class-I and Class-II and Gujarat Municipal Chief Officers Service Class-II.
2. This Court is conscious of the fact that decisions abound that it is the onus on the candidate not only to demonstrate that the key answer is incorrect but also that it is a glaring mistake

which is totally apparent and no inferential process or reasoning is required to show that the key answer is wrong. Decisions on such lines especially that of the Supreme Court have time and again cautioned the Constitutional Courts to exercise great restraints in such matters and show reluctance to entertain, plea challenging the correctness of the key answer.

3. This is one case in which conscious of these limitations, the Court is inclined to grant an interim relief permitting the petitioners to appear in the written examination scheduled to commence tomorrow i.e. 27.08.2022.
4. The petitioners appeared in the preliminary examinations and essentially found three questions in the master key viz. Question Nos.42, 54 and 80, requiring a re-look. Extensive arguments have been made by the learned

counsel for the petitioners trying to convince the Court of overlooking the judicial restraints and to give relief.

5. Mr.Chaitanya Joshi learned advocate for the GPSC would remind the Court of its judicial restraint by relying on a decision as recently as that of the 17.08.2022 delivered by this Court in case of Jigar Bharatsingh Kshtriya v. State of Gujarat, wherein this Court considering the decisions of the Supreme Court especially in case of ***Ran Vijay Singh and Others v. State of Uttar Pradesh*** reported in ***(2018) 2 SCC 357*** has reminded the Court of its restraints.

6. Two questions viz. Question No.54 and 80 are questions framed by the GPSC. As far as question no.54 is concerned, the options could be more than one. As far as question no.80 there is some reservation, Mr.Sudhanshu Jha has during

the course of the submissions, relied on the decision of the Allahabad High Court in case of Sunilkumar Singh and others v. U.P. Public Service Commission and others decided by the Division Bench of the Allahabad High Court on 09.12.2016. It will be apt to voice the concerns of the Court in the perception of the candidates. The Division Bench of the Allahabad High Court in one of the paragraphs, said this. *“A candidate roughly got 48 seconds on an average to answer each question. Thus, time management in such a competitive examination was of considerable importance. A candidate who succeeds in attempting all questions could be in an advantageous position. In such a scenario, it is of utmost importance that questions frame are clear and unambiguous and admit of no doubt or confusion.”* (This precisely is what the questions 54 and 80 harbor). *“Ideally there should be one*

and only one correct answer. With a question contains a clue, it should be exact and relevant and not misleading.

7. These petitioners apparently *prima-facie* appear to be the victims of framing of questions which appeared to be ambiguous or confusing. In the case of Kanpur University through Vice Chancellor and others v. Samir Gupta and others 1983 4 SCC 309, which has been followed by the decisions while warning of judicial restraint, the Court has recommended that there must be a system of avoiding ambiguity in questions. This is one case where the two questions appear to be ambiguous.

8. Hence the Court proceeds to grant interim relief directing the GPSC to permit the petitioners to appear in the written examinations scheduled from tomorrow (27.08.2022) for the purpose of

recruitment to the post of Gujarat Administrative Service Class-I and Class-II and Chief Officer - Gujarat Nagarpalika Class-II to be held by virtue of the advertisement No.30/2021-22 dated 28.09.2021.

9. The results of the petitioners shall be kept in a sealed cover. It is clarified that merely because the petitioners are permitted to appear in the examination, will not entitle them to claim equities in their favour.

10. **RULE** returnable on 08.11.2022.

11. Mr. Utkarsh Sharma learned AGP waives service of Rule on behalf of the State and Mr. Chaitanya Joshi waives service of Rule on behalf of respondent no.2-GPSC. Direct service **today** is permitted.