

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 14636 of 2019

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE BIREN VAISHNAV

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	
2	To be referred to the Reporter or not ?	
3	Whether their Lordships wish to see the fair copy of the judgment ?	
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	

DARSHAN BIPINBHAI TRIVEDI
 Versus
 STATE OF GUJARAT

Appearance:

MS HARSHAL N PANDYA(3141) for the Petitioner(s) No. 1
 MR KRUTIK PARIKH, AGP for the Respondent(s) No. 1,2
 HARSH K RAVAL(9068) for the Respondent(s) No. 3

CORAM: HONOURABLE MR. JUSTICE BIREN VAISHNAV

Date : 05/05/2022

CAV JUDGMENT

- Rule**, returnable forthwith. Ms. Krutik Parikh, learned Assistant Government Pleader waives service of notice of Rule for the respondent Nos. 1 and 2 as well as Mr. Harsh K. Raval, learned advocate waives service of notice of Rule

for the respondent No.3.

2. With the consent of the learned advocates appearing for the respective parties, the petition was taken up for its final disposal.
3. In this petition, under Article 226 of the Constitution of India, the prayer of the petitioner is to quash and set aside the appointment order dated 24.7.2019 of the respondent No.3 appointing him as Assistant Director of Information (Journalism), Class II.
4. The facts in brief indicate that the petitioner possesses educational qualification of B.Com and Diploma in Journalism. He had worked as a reporter in Sandesh from 1.4.2008 to 7.10.2009. He then worked with Divyabhaskar as Senior Reporter. The petitioner was appointed as Information Assistant, Class III in the department of Information and Broadcasting of the State on 21.5.2010. He has been serving on the promotional post of Senior Sub Editor since 26.12.2018. An advertisement was issued on

5.11.2015 inviting applications for Direct Recruitment to the posts of Assistant Director of Information (Editorial), Class II. The petitioner applied for the post. The recruitment is held by the department and not GPSC.

5. Ms. Harshal Pandya, learned counsel for the petitioner would submit that the recruitment rules dated 16.2.2015 provide for the rules for recruitment. The Rules through mistake use the word "Editorial" instead of "Journalism." For being eligible for appointment by direct selection, the candidate must possess the qualification mentioned in rule 4 of the Rules. She would submit that a candidate must have the requisite qualification so prescribed. The respondent No.3 does not hold the requisite experience and therefore the petitioner made a representation on 24.6.2019. According to Ms. Pandya, the respondent No.3 holds a certificate of having worked from November, 2009 to September, 2014 as sub editor in "Namaskar Publication." He worked in "Sanj Samachar" which is a daily newspaper from February, 2014 to August, 2014. She would therefore submit that simultaneously working in two

publications was improper. Drawing the Court's attention to certificate of experience, she would submit that apart from the certificate having no date, it was owned by one Editor Kishor Makwana. She would rely on an RTI response to submit that the Namaskar Magazine was deblocked in the year 1962. The certificate therefore was bad. She would therefore submit that over and above the educational qualification, the respondent No.3 did not possess the required experience as the magazine Namaskar was run by an individual entity and, therefore, apart from working at two places at the same time, the respondent No.3 was not qualified.

6. Mr. Krutik Parikh, learned AGP appearing for the respondent - State would submit that as per Rule 4(b)(i) and 4(b)(ii), the respondent was having a Masters Degree in Journalism. He had experience of approximately three years, fifteen months and twenty three days working in 'Namaskar Magazine' and in 'Divyabhaskar' from 9.10.2014 to 31.10.2015. As far as the recruitment done through the employer department, and not through GPSC, Mr. Parikh would submit that as per Regulation No.3 of the

GPSC (Exemption from Consultation) Rules, 1960, the respondent department had got exemption from the consultation.

7. Mr. Harsh K. Raval, learned counsel appearing for respondent No.3 would submit that the answering respondent is working in the field of journalism for the last more than 14 years and had experience as Sub-Editor in 'Namaskar Magazine' from November, 2019 to September, 2014 where he was working from 8.00 am. In 'Sanj Samachar', the respondent No.3 was working from February, 2014 to August, 2014 in evening hours. The time period therefore was not overlapping. 'Namaskar Publication' which was blocked was owned by one Jivraj Aarya whereas the respondent was working in a different registration number publication namely; Surya Namaskar. The experience provided in the Rules was satisfied by the respondent No.3 as the Rules clearly provided that one should have combined or separate experience in either of the entities mentioned in the Rules.

8. Ms. Harshal N. Pandya, learned counsel for the petitioner relied on the following decisions:

(a) Ramjit Singh Kardam v. Sanjeev Kumar and others reported in AIR 2020 SC 2060

(b) Meeta Sahai v. State of Bihar reported in 2019(20) SCC 17

(c) Decision rendered in the case of Dr. Rachita Vijaykumar Jayswal in SCA No.8631/2020 dated 25.3.2022 of this Court

(d) Thorat Nayan Hemchandra v. State of Gujarat reported in 2016(4) GLR 3266 &

(e) Mukesh V. Chavda v. State of Gujarat reported in 2013(1) GLR 265.

9. Mr. Harsh K. Raval, learned counsel appearing for the respondent No.3 relied on the following decisions:

(a) Chandra Prakash Singh and others v. Chairman, Purvanchal Gramin Bank and others reported in 2008(12) SCC 292

(b) Madras Institute of Development Studies and another v. K. Sivasubramaniyan and others reported in 2016(1) SCC 454

(c) Jagat Bandhu Chakraborti v. G.C. Roy and others reported in 2000(9) SCC 739

(d) Amit Raj Yadav v. State of U.P. reported in 2011 SCC OnLine All 131

(e) Dilip Barman and others v. Md. Mainul Haque Chowdhury and others reported in 2008(4) SCC 619 &

(f) Trivedi Himanshu Ghanshyambhai v. Ahmedabad Municipal Corporation reported in

2007(8) SCC 644

10. Considering the submissions made by the learned advocates for the respective parties, to adjudicate upon the eligibility of the respondent No.3 for being entitled to hold the post of Assistant Director (Journalism) Class II, it will be proper to reproduce the relevant Rule namely; Rule 4 of the Assistant Director of Information (Journalism) Class II Recruitment Rules, 2015. Rule 4 reads as under:

“4. To be eligible for appointment by direct selection to the post mentioned in Rule 2, a candidate shall;

(a) Not be more than 35 years of age:

Provided that the upper age limit may be relaxed in favour of a candidate who is already in the service of the Government of Gujarat in accordance with the provisions of the Gujarat Civil Services Classification and Recruitment (General) Rules, 1967;

(b) Possess: *a post graduate diploma in Journalism and Mass Communication or a post graduate degree in Journalism and Mass Communication obtained from any of the Universities established or incorporated by or under the Central or a State Act in India, or any other educational institution recognized as such by the Government or declared to be deemed as University under section 3 of the University Grants Commission Act, 1956; or possess an equivalent qualification recognized by the Government; and*

(i) have about three years experience on the post not below the rank of Information Assistant, Class III, in the subordinate service of the

Commissionerate of Information; or

(ii) have about three years combined or separate experience of Journalism or publicity or public relation work or organizing exhibition or editing a daily newspaper or electronic media or periodicals in the Government or Local Bodies or Government undertaking Board or Corporation or Limited Company established under the Companies Act, 1956 or public or private sector daily newspaper or news agency or electronic media or publicity organization on the post which can be considered equivalent to the post nor below the rank of Information Assistant, Class III, in the subordinate service of the Commissionerate of Information; or

(II) a degree in Journalism and Mass Communication or a degree in Journalism obtained from any of the Universities established or incorporated by or under the Central or a State Act in India; or any other educational institution recognized as such by the Government or declared to be deemed as University under section 3 of the University Grants Commission Act, 1956; or possess an equivalent qualification recognized by the Government; and

(i) have about five years experience on the post not below the rank of Information Assistant, Class III, in the subordinate service of the Commissionerate of Information; or

(ii) have about five years combined or separate experience of Journalism or publicity or public relation work or organizing exhibition or editing a daily newspaper or electronic media or periodicals in the Government or Local Bodies or Government undertaking Board or Corporation or Limited Company established under the Companies Act, 1956; or public or private sector daily newspaper or news Agency or electronic media or publicity organization on the post which can be considered equivalent to the post not below the rank of Information Assistant, Class III, in the subordinate service of the Commissionerate of Information.

(c) possess the basic knowledge of computer application as prescribed in the Gujarat Civil Services Classification and

Recruitment (General) Rules, 1967.

(d) *possess adequate knowledge of Gujarati or Hindi or both."*

11. Reading the Rule makes it clear that an incumbent apart from holding a post-graduate diploma in Journalism, which the respondent No.3 possessed should have about 3 years' combined experience in the Editorial work as under and in the following organizations:

(A) EDITORIAL WORK:

- (1) *Journalism*
- (2) *Publicity*
- (3) *Public Relation Work*
- (4) *Organization Exhibition*
- (5) *Editing a Daily News Paper*
- (6) *Electronic Media &*
- (7) *Periodicals.*

(B) ORGANIZATIONS:

- (1) *The Government*
- (2) *Local Bodies*
- (3) *Government Under Taking Board or Corporation*
- (4) *Limited Company established under the*

Companies Act, 1956

- (5) *Public Sector Daily Newspaper*
- (6) *Private Sector Daily Newspaper*
- (7) *News Agency*
- (8) *Electronic Media &*
- (9) *Publicity Organization.*

12. Nowhere does Recruitment Rule stipulate that it has to be in only a government or local body or a government undertaking board or the Corporation or a Company. This would amount to restrictive reading of the Rule and, therefore, it cannot be said that the respondent No.3 does not possess the requisite experience.

13. For the aforesaid reasons, the petition is dismissed. Rule is discharged. No order as to costs.

(BIREN VAISHNAV, J)

VATSAL S. KOTECHEA

WEB COPY