

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 3509 of 1998**=====
KV VADODARIA & 3 other(s)

Versus

STATE OF GUJARAT
=====**Appearance:**

MR RATILAL V SAKARIA(6613) for the Petitioner(s) No. 1,2,3,4

MRS NISHA M PARIKH(2397) for the Petitioner(s) No. 1,2,3,4

M/S PATEL ADVOCATES(1762) for the Respondent(s) No. 2

MR CHAITANYA S JOSHI(5927) for the Respondent(s) No. 3

MR SP HASURKAR(345) for the Respondent(s) No. 1,2

MR SUDHAKAR B JOSHI(3465) for the Respondent(s) No. 3
=====**CORAM:HONOURABLE THE ACTING CHIEF JUSTICE MR. JUSTICE****A.J.DESAI**

and

HONOURABLE MR. JUSTICE BIREN VAISHNAV**Date : 06/04/2023****ORAL ORDER****(PER : HONOURABLE MR. JUSTICE BIREN VAISHNAV)**

[1.0] The results which were in the sealed covers are produced before this Court by learned advocate Mr. Chaitanya Joshi appearing on behalf of respondent No.3 – Gujarat Public Service Commission and same have been opened in presence of learned advocate Mr. Ratilal Sakaria appearing for the petitioners as well as learned advocate Mr. Chaitanya Joshi appearing for respondent No.3 – GPSC.

From the perusal of the said results dated 01.12.1998, this Court has found that under the signature of the Chairman and the Members of the Committee, two persons viz. (1) Mr. Kishor Virjibhai Vadodaria (58) and (2) Mr. Jagdish K. Dhanani (57) were held to be suitable candidates since they were permitted to take examination pursuant to the order passed by this Court in the

present proceedings.

[2.0] Pursuant to the opening of the sealed cover and having found that the petitioner Nos.1 and 3 had successfully undergone the selection process, the facts briefly indicate that the petitioners have approached this Court challenging the validity of the Rules called the Deputy Director of Agriculture and the District Agricultural Officer (except in Gandhinagar and Dangs Districts) Recruitment Rules, 1987 (hereinafter referred to as "Rules, 1987").

[2.1] It is the case of the petitioners that by restricting the upper age limit to 30 years of age, the petitioners would be disqualified for applying for the same through direct recruitment.

[3.0] Learned Counsel Mr. Sakaria appearing for the petitioners has taken this Court to the grounds raised in the petition. It is the case of the petitioners that under the Gujarat Civil Services Classification and Recruitment (General) Rules, 1967, the minimum requirement with regard to the educational qualification in graduation, the upper age limit for the post has to be minimum of 28 years. Learned Counsel appearing for the petitioners would submit that the post in question requires M. Sc. as the minimum qualification. The minimum age which can be prescribed for this post is 30 years in light of the Rules, 1987. He would submit that if the experience is one of the essential qualifications prescribed for the post, the number of years for which the experience is required to be added for the prescribing of the upper age limit, the minimum age which can be prescribed as the upper age limit could be 35 years and on this count

therefore, the Rules, 1987 should be declared as unconstitutional and arbitrary. Referring to the statement of details in case of the petitioner Nos.1 and 3, it is the case of the petitioners that petitioner No.1 completed his graduation in the year 1987 and post-graduation in the year 1990. Looking to the Rules, 1987, post, post-graduation, even if the five years' experience was to be undergone, the petitioners would cross the age limit of 30 and would therefore be ineligible.

[4.0] Learned Assistant Government Pleader Ms. Shruti Pathak appearing on behalf of the respondent – State of Gujarat would invite the Court's attention to the affidavit in reply filed in the petition and justify the upper age limit as prescribed in the Rules, 1987 under challenge. She would submit that the maximum age has been prescribed under the statutory Rules looking to the past when in the year 1988, eight candidates were made available for recruitment within the age of 30 years. She would invite the attention of the Court to the affidavit in reply filed in the Civil Application (For Amendment) wherein, it is pointed out that the petitioners by virtue of the interim order did sit in the interview however, they have been gainfully employed as Associate Professor with the Navsari Agricultural University. She would further submit that even otherwise the Rules, 1987 have now been substituted by the Recruitment Rules, 1999 and therefore, the issue has become academic.

[5.0] Having considered the submissions made by the learned Counsel appearing for the respective parties including that of Mr. Chaitanya Joshi for the Gujarat Public Service Commission and having perused the personal details especially the age of

petitioner Nos.1 and 3, who pursuant to the interim order were successful in the interview, their date of birth is 16.11.1965 and 14.09.1965 respectively. Indisputably, the age of superannuation being 58 years, the petitioners would be attaining the age of superannuation even otherwise.

[5.1] Having also gone through the affidavit in reply filed in the Civil Application (For Amendment), what is evident is that Rules, 1987 have now been subsequently amended in the year 1999 raising the upper age limit to that of 35 years of age.

[6.0] In light of the age of petitioner Nos.1 and 3 and particularly when all the petitioners have been gainfully engaged and employed, the question of the challenge to the Rules, 1987 having become academic need not to be gone into. Hence, present petition is disposed of accordingly.

The cover of the results has been handed over to the learned advocate Mr. Chaitanya Joshi appearing for the Gujarat Public Service Commission.

Rule is hereby discharged.

(A.J. DESAI, ACJ)

(BIREN VAISHNAV, J.)

Ajay