

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 485 of 2022**

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BALDEVBHAI SARTANBHAI DESAI
Versus
STATE OF GUJARAT & ORS.

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Appearance:

MR DIPAN DESAI(2481) for the Petitioner(s) No. 1

MS NIRALI SARDA, AGP for the Respondent(s) No. 1,2,3

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL

Date : 17/09/2025
ORAL ORDER

1. Heard learned Advocate Mr. Dipan Desai with learned Advocate Ms. Jaini Thakore for the petitioner and learned AGP Ms. Nirali Sarada for the respondent-State.

2. The present petition impugns an order dated 22.04.2022 passed by the Additional Commissioner of State Tax, whereby overall appraisal of 'good' in ACRs of the petitioner from the year 2002-03 to 2009-10, has been treated as dis-entitling the petitioner for further promotion, more particularly in an inter-se selection between similarly situated officers.

3. The contention of the petitioner being that if the overall appraisal 'good' were to hinder the promotional chances of the petitioner, then 'good' ought to have been termed as an adverse entry and the petitioner ought to have been given an appropriate opportunity to contest the same.

The said request having not been entertained by the respondent No.3, the petitioner has approached this Court.

4. While attention of this Court is drawn to a Government Resolution dated 19.01.2015, wherein the State has envisaged establishment of Referral Boards to consider appeals/representations against adverse entry in ACR/PAR of Government employees. It is also submitted that the decision on the representation of the petitioner ought to have been taken by the Referral Board as constituted and not by an individual officer. Prima facie, it appears to this Court that when the State has envisaged a Referral Board to consider representations/appeals against adverse entry in ACR, vide Government Resolution dated 19.01.2015 and since the petitioner was a Class-II/Class-I officer, during the period when the overall remark of good had been given, therefore, though the respondent No.3 had decided the representation of the petitioner as per directions of this Court, yet, it would appear to this Court that at the relevant point of time, the factum of a Referral Board being available, as per a policy of the State, ought to have been brought to the notice of this Court or in the alternative, the representation of the petitioner ought to have been considered by the Referral Board.

5. Under such circumstances, let the State look into the aspect and revert back to this Court by 26.09.2025, as to whether the Government Resolution dated 19.01.2015 insofar as the constitution of Referral Boards to decide appeals/representations against an adverse entry would have been the right forum to decide the representation of the petitioner, more particularly since the Board had been contemplated to be established vide the Resolution of 2015, referred to hereinabove. The State shall also take appropriate instructions and inform this Court as regards the constituents of the Referral Board, in case the State is inclined to have the issue, insofar as the present petitioner is concerned, decided through a Referral Board.

6. The above exercise is required so as to ensure that there is no more further litigation, at least on this aspect, since the history leading to the petition reveals that the present petition may be probably the 6th round of litigation before this Court for the very selfsame issue and whereas to this Court, it would appear that there should not be any 7th round on this issue.

List this matter on 26.09.2025.

BDSONGARA

(NIKHIL S. KARIEL,J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: BHUPENDRASINH DHANESINH SONGARA(HC01082), Private Secretary, at High Court of Gujarat on 17/09/2025 18:18:40