

Reserved On : 08/05/2026

Pronounced On : 17/07/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/LETTERS PATENT APPEAL NO. 1126 of 2023

In R/SPECIAL CIVIL APPLICATION/588/2022

With

R/LETTERS PATENT APPEAL NO. 1127 of 2023

In

R/SPECIAL CIVIL APPLICATION NO. 515 of 2022

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VARSHABEN BHUPENDRABHAI TRANSAVALA & ORS.

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR DIPAN DESAI(2481) for the Appellant(s) No. 1,2,3,4

MS SHRUTI DHRUVE, AGP for the Respondent(s) No. 1

RULE SERVED for the Respondent(s) No. 2,3

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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. On 28.4.2009, the State Government passed an order holding that the librarians who had completed nine years of service after 1.1.1996 would be entitled to a higher pay scale of Rs 4,500/- to Rs.7,000/- and not Rs.5,000/- to Rs.8,000/-.

2. Consequently, the Commissioner of Midday Meals & Schools had issued instructions on 20.5.2009 for recovering the higher grade pay that had been given to

the librarians.

3. The appellants herein along with two other batch of librarians, approached this Court by way of filing Special Civil Application Nos.10305 to 10307 of 2009 challenging the cancellation of the higher pay scale of Rs.5,000/- to Rs.8,000/- that was granted to them.

4. The learned Single Judge of this Court clubbed all the petitions together and passed an order dated 26.9.2017. The learned Single Judge came to the conclusion that the order cancelling the higher pay scale was wholly without any basis, inasmuch as this order dated 28.4.2009 arose out of an information provided under the RTI Act. The learned Single Judge recorded a categorical finding that there did not exist any valid order cancelling the higher pay scale granted to the petitioners and the higher pay scale granted to them was sought to be cancelled only on the basis of some information that had been provided under the RTI Act to one Harshadkumar J. Parekh. The learned Single Judge, therefore, quashed the order cancelling the higher pay scale granted to the petitioners and also the consequential orders of recovery.

5. The learned Single Judge in the said order has stated thus:

“11. In view of the aforesaid observations and analysis, I am of the view that the orders dated 28.04.2009 passed by the State Government and instructions dated 20.05.2009 passed by the Commissioner, Midday Meals and schools are required to be quashed and set aside. The respondent authorities are hereby directed to consider the case of the petitioners in light of the judgment and order of Tribunal dated 25.08.2008 rendered in Application No.142 of 1999 which was confirmed by this Court in Special Civil Application NO.2955 of 2010 vide order dated 08.03.2010 and pass appropriate orders granting the high pay scale in case it is found that the issue is covered by the judgment and order of Tribunal and this Court.”

6. It is, thus, clear that the learned Single Judge, on the petitions filed by the petitioners categorically stated that there was no valid order cancelling the higher pay scale granted to the petitioners and the recovery thereof would be illegal. In other words, the purported cancellation of a higher pay scale by the State was quashed by the learned Single Judge. Not only that, but the State was directed to consider the case of the petitioners in the light of the judgment and order of the Tribunal dated 25.08.2008, rendered in Application No.142 of 1999 and which was confirmed by this Court in Special Civil Application No. 2955 of 2010, which related to Prashantkumar Hasmukhray Jha. This order has attained finality since the State did not choose to prefer an appeal against the said order. The effect of this is that as far as the State of Gujarat and the petitioners are concerned, there is a judgment which binds them and which states that the

higher pay scale granted to the petitioners cannot be cancelled and no recovery can also be given effect to.

7. The State notwithstanding the said order, to which it was bound, has proceeded to reject the claim for restoration of the higher pay scale and this has resulted in petitioners approaching the learned Single Judge.

8. The learned Single Judge taking into consideration that the issue between the State and the petitioners was covered by the earlier decision rendered in Special Civil Application No.10306 of 2009 dated 26.9.2017 has directed the State to undertake the exercise issued in Special Civil Application No.10306 of 2009 and pass fresh orders by hearing the petitioners and assigning specific reasons.

9. The appellants herein being aggrieved by this direction to the State to consider the matter afresh have preferred this appeal.

10. The appellants contend that in Special Civil Application No.10306 of 2009, there is a judgment rendered inter-parties, i.e. between the petitioners and the State, that the cancellation of the higher pay scale of Rs.5,000/- - 8,000/- was incorrect. They contend that their case ought to have been considered in line with the judgment rendered in the case of Prashantkumar Harshadray Jha in Special Civil Application No.2955 of

2010 and the learned Single Judge could not have, therefore, given one more opportunity to the State to reconsider the matter. It is contended that the learned Single Judge ought to have directed the State to simply comply with the order that has been passed on 26.09.2017 and it ought not to have given an opportunity to the State to consider the matter afresh.

11. Basically, it is contended that the issue regarding grant of higher pay scale to the petitioners has to be concluded by the decision rendered in Special Civil Application No.10306 of 2009 and the learned Single Judge could not have therefore given a chance to the State to reopen the issue.

12. Learned Assistant Government Pleader on the other hand strenuously contended that the entitlement of higher pay scale insofar as librarians are concerned has been decided in Letters Patent Appeal No.20 of 2026, whereby the Division Bench had authoritatively interpreted the relevant Government Resolutions and held that librarians were not entitled to a higher pay scale. It is argued that the Division Bench has held that librarians would only be entitled to a pay scale of Rs.4,500/- to Rs.7,000/- and not Rs.5,000/- to Rs.8,000/-. It is also suggested that this Court would be bound by the decision of the Coordinate Bench and cannot pass a contrary order.

13. As already noticed above, in the year 2009, the State Government had attempted to cancel the higher pay scale that had been granted to the petitioners. This cancellation of higher pay scale by the State was quashed by this Court and this was on the premise that in case of a similar librarian, i.e., Prashantkumar Hasumukhray Jha, the Tribunal had held that librarians were entitled to a pay scale of Rs.5,000/- to Rs.8,000/- and this decision of the Tribunal was affirmed by this Court in Special Civil Application No.2955 of 2010. It is also not in dispute that the decision rendered by this Court in Special Civil Application No.2955 of 2010 has been confirmed by the Hon'ble Supreme Court in the Special Leave to Appeal (Civil) CC No.11597 of 2011.

14. If there is a judgment *inter- parties*, i.e., between the appellants and the State, which concludes the issue of higher pay scale, and if this conclusion arrived earlier, in the petition filed by the petitioners, was on the basis of a judgment rendered by this Court, which was confirmed by the Supreme Court, it would be impermissible for the State to argue that the said decision will have to be ignored and the decision rendered in Letters Patent Appeal No.20 of 2026 would have to be applied.

15. If the argument of the State that the decision rendered in Letters Patent Appeal No.20 of 2026 is to be

applied and as a consequence, the higher pay scale to the petitioners will have to be denied, then such a course of action would tantamount to setting aside the order passed in favour of the petitioners in Special Civil Application No.2955 of 2010, which has attained finality.

16. In our view, we are not entitled to examine the issue as to whether the petitioners (appellants herein) are entitled to higher pay scale or not in view of the decision rendered in Special Civil Application No.2955 of 2010, wherein it has been held that the appellants were granted the higher pay scale lawfully.

17. In the light of the above, the arguments sought to be advanced the State regarding the applicability of various judgments would not be available.

18. Consequently, even when the parties have not challenged the direction in Special Civil Application Nos.10305 to 10307 of 2009 and the same having attained finality (for no appeal was preferred therefrom), as the said decision in Special Civil Application Nos. 10305 to 10307 of 2009 preceded the decision of Apex Court in S.L.P. No.11597 of 2011, the said exercise (as directed therein) will have to be complied. Albeit, it is directed that whilst considering the case of the appellants herein, due regard be had to the decision of the Apex Court, rendered in S.L.P. No.11597 of 2011.

19. These appeals stand ALLOWED to aforesaid extent.

Sd/-
(N.S.SANJAY GOWDA,J)

Sd/-
(J. L. ODEDRA, J)

OMKAR

FURTHER ORDER

After pronouncement of the judgment, a request is made to keep the present order in abeyance for a period of eight weeks.

We find no reason to stay the present order. Hence, the stay, as prayed for, is REFUSED.

Sd/-
(N.S.SANJAY GOWDA,J)

Sd/-
(J. L. ODEDRA, J)

OMKAR