

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 2820 of 2026**

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DEVABHAI HIRABHAI CHAVDA

Versus

THE GENERAL MANAGER (AD) GSRTC & ANR.

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Appearance:

MR HARDIK D MUCHHALA(5634) for the Petitioner(s) No. 1

MR AAKASH GUPTA AGP for the Respondent(s) No. 2

MR HS MUNSHAW(495) for the Respondent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE NIRZAR S. DESAI**Date : 27/04/2026****ORAL ORDER**

1. Heard learned advocate Mr. Hardik Muchhala for the petitioner and Learned advocate Mr. Munshaw for respondent - GSRTC.

2. By way of this petition, the petitioner has prayed for following relief;

A. This Honble Court be pleased to issue a writ of mandamus or any other writ, order or direction in form of writ of mandamus directing the respondents to issue appointment order to the petitioners at the post of Driver - Class 3;

B. This Honble Court be pleased to hold and declare the

action of the respondents in not appointing the petitioners despite being there in the select list is arbitrary, unjust, improper and illegal;

C. This Honble Court be pleased to grant interim relief by directing the respondents to give provisional appointment to the petitioner on the posts of Driver - Class 3

D. This Honble Court be pleased to pass such other and further relief as may be deemed just and proper in the facts and circumstances of the case.

3. In a nutshell, the case of the petitioner is that he belongs to the Scheduled Tribe (ST) category, as declared by him in the application form submitted for the post of Driver in the GSRTC pursuant to an advertisement published in the year 2023. The petitioner was duly selected and his name appeared in the select list. It is the case of the petitioner that, as he had secured marks higher than the cut-off marks prescribed for the general category, he was entitled to be considered for appointment in the general category. However, prior to issuance of the appointment order, at the stage of document verification before the Scrutiny Committee for verification of his caste certificate, the petitioner failed to produce adequate

supporting documents. Consequently, the petitioner was not granted appointment to the post of Driver. Being aggrieved by the said action, the petitioner has preferred the present petition.

4. When the matter was taken up for hearing, learned advocate Mr. Muchhala, upon instructions, submitted that in view of the fact that the petitioner had secured marks higher than the cut-off marks prescribed for the general category, the petitioner is ready and willing to give up all benefits available to him as a Scheduled Tribe candidate and to be considered for appointment purely under the general category. It is further submitted that the petitioner undertakes that, even in future, he shall not claim any benefits available to reserved category candidates. The petitioner, though belonging to the Scheduled Tribe category, could not obtain clearance from the Scrutiny Committee due to want of adequate supporting documents..

5. To substantiate the aforesaid submission made orally upon instructions by learned advocate Mr. Muchhala, an affidavit of the petitioner dated 23rd April, 2026 has been filed. The affidavit reads as under;

I, Devabhai Hirabhai Chavda, Age: 35 years, Occupation: Driver (selected), residing at the address as mentioned in the cause title of this petition do hereby solemnly affirm and state on oath as under:

1. The petitioner is filing present composite Affidavit cum undertaking in pursuant to oral directions of this Hon'ble Court dated 20.04.2026 as under:

2. The petitioner undertakes and states that the till date the petitioner has not taken any benefits of age relaxation or height relaxations, educational benefits or any other benefits in the present recruitment process pertaining to the post of Driver in GSRTC for the Advertisement produced at Ann. A.

3. The petitioner undertakes and submits that the petitioner's appointment is to be considered and treated purely in general category candidate and the petitioner is to be treated as open merit category candidate.

4. The petitioner undertakes and submits that he has not availed any benefits of Scheduled Tribe candidate till date for the post of Driver (Class 3) in the set up of GSRTC.

5. The petitioner further undertakes that he shall not claim any future benefits of reservation for all time to come in his employment in GSRTC like benefits in

promotion, seniority or any other job related benefits arising out of his employment.

6. I state and submit that what is stated hereinabove is true and correct and I believe the same to be true.

6. The aforesaid affidavit clearly indicates that the petitioner seeks to be considered as a candidate belonging to the general category. It is also evident that, for all future purposes, including promotion, seniority, and other service-related benefits, the petitioner undertakes to be treated as a general category candidate. The affidavit further reflects that the petitioner has not availed any relaxation or benefits that are otherwise available to a Scheduled Tribe candidate.

7. Learned advocate Mr. Munshaw also could not dispute the fact that the petitioner is otherwise a meritorious candidate and has secured marks higher than the cut-off marks prescribed for the general category. It is, therefore, not in dispute that the petitioner can be considered for appointment under the general category, particularly in view of the fact that the petitioner has chosen to give up all benefits available to him as a reserved category candidate. Such benefits would have otherwise accrued to him as a Scheduled Tribe candidate,

subject to obtaining clearance from the Scrutiny Committee, which the petitioner could not secure.

8. In view of the above, both learned advocates, Mr. Muchhala and Mr. Munshaw, jointly submit that an appropriate order may be passed.

9. I have considered the submissions made by learned advocate Mr. Muchhala and learned advocate Mr. Munshaw. I have also taken into consideration the affidavit-in-reply filed on behalf of the GSRTC Corporation. Further, I have examined the relevant terms of the advertisement issued at the relevant point of time, wherein under Chapter 'K' of the advertisement, pertaining to the benefits of reservation, Clause 8 specifically provides that, as per the prevailing provisions of the State Government, if a candidate belonging to a reserved category has not availed any of the benefits attached to such category and opts to be considered as a general category candidate, his candidature can be considered under the general category. In such a case, the post shall also be treated as one falling under the general category.

10. Even the affidavit-in-reply filed by GSRTC indicates that the petitioner was not granted appointment solely on the ground that he failed to produce the necessary documents for verification before the Scrutiny Committee. It is further stated that the Director, Scheduled Tribe Development, by communication dated 31st March, 2023, rejected 19 caste certificates, wherein one of the caste certificate rejected of the candidate was of the present petitioner as well, the petitioner was not appointed.

11. Except for the aforesaid reason, there are no allegations against the present petitioner of having indulged in any fraud or malpractice during the course of the entire selection process.

12. Considering the above aspects, and in view of the fact that the petitioner has already given an undertaking in the form of an affidavit, which has been reproduced in the foregoing paragraphs, this Court is of the opinion that the ends of justice would be met if the respondent Corporation is directed to consider the case of the petitioner for appointment under the general category, provided the petitioner satisfies all other eligibility requirements of the respondent Corporation

and there is no other adverse material against him. The respondent Corporation is, therefore, directed to take an appropriate decision with regard to the petitioner's appointment as a general category candidate, on the basis of the undertaking furnished by him, within a period of 15 days from the date of receipt of this order. In the event that the respondent Corporation is of the view that, despite the undertaking given by the petitioner, he is not required to be appointed under the general category to the post of Driver, the respondent Corporation shall pass a reasoned order and communicate the same to the petitioner by Speed Post.

13. With the aforesaid directions, and without entering into the merits of the matter, the petition stands disposed of, keeping all the rights and contentions of both the parties are kept open.

BHAVIN MEHTA

(NIRZAR S. DESAI,J)