

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 5216 of 2025**

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PATEL ANKITABEN DHARMESHKUMAR D/O PATEL PRAKASHBHAI
Versus
STATE OF GUJARAT & ANR.

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Appearance:

VATSAL S PARIKH(7452) for the Petitioner(s) No. 1
MS DEVANSHI PATEL, GOVERNMENT PLEADER for Respondent(s) No. 1
MR PRANAV K TRIVEDI(9735) for the Respondent(s) No. 2

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CORAM: **HONOURABLE MR. JUSTICE NIRZAR S. DESAI**

Date : 30/03/2026

ORAL ORDER

1. Heard, learned Advocate, Mr. Parikh, for the petitioner, learned AGP, Ms. Patel, for the Respondent-State and learned Sr. Advocate, Mr. P.G. Desai, assisted by learned Advocate, Mr. Trivedi, for Respondent No.2.

1.1 Learned Counsels appearing for the respective parties jointly submitted that that have arrived at a consensus and upon their consensus, the following order is passed;

(1) The present issue concerns the selection to the post of laboratory assistant in Respondent No.2-Institute of Kidney Disease and Research Center. In the respondent Institution, there were 93 posts for laboratory assistant which were vacant and for that purpose, an advertisement was issued on 14.04.2023. The petitioner filled up the form in EWS category. As per respondent No.2-Institution, 167 candidates were called for

the verification of the documents on different dates.

(2) It is submitted by the learned Senior Advocate appearing for respondent No.2 that 135 candidates came for the document verification. It is borne out from the record that 110 candidates were informed on 04.09.2024 for submitting the documents on 12.09.2024. The 46 candidates were informed on 28.01.2025 by mail to submit the certificate on 29.01.2025. Three candidates were informed by mail on 18.02.2025 to submit the documents by 19.02.2025, and 8 candidates were sent the mail on 19.02.2025 for submitting the documents on 20.02.2025.

(3) From the affidavit in reply filed by the Institute, it is borne out that 167 candidates were informed through mail to remain present for document verification. Out of total 167 candidates, 135 candidates remained present and verified the documents, whereas 32 candidates remained absent for document verification.

(4) The petitioner was informed by email on 28.01.2025 for document verification on 29.01.2025, but the petitioner did not remain

present. The Institute appointed total 101 candidates and remaining candidates were placed in a waiting list.

(5) The petitioner filed the above-mentioned petition challenging the action of the respondent for preparing the final merit list and prayed for quashing and setting aside the final merit list made on 11/13.03.2025. The grievance of the petitioner is that the petitioner was not given enough time for submitting the documents and the merit list was pronounced, and the petitioner was not considered on the ground that he has not submitted the documents on the given date, though otherwise as per marks petitioner was qualified.

(6) When the matter was taken up for hearing, this Court requested the learned Senior Advocate appearing for respondent-Institution to look into the issue, more particularly, the dire need of laboratory assistants by the respondent institution and also on account of the fact that probably a via media could have been found out if the Institution so desirous.

(7) It would appear that today, learned Senior

Counsel Mr. Desai, under instructions of the institution, would submit that the institution would be ready and willing to accommodate the petitioner in general category subject to certain conditions, as the posts of EWS category have already been filled up and there are vacancies in general category. To which learned counsel under instructions states that, the petitioner has no objection to be appointed in general category.

(8) Learned Senior Counsel would further submit that this Court may pass appropriate order so as to ensure that such petitioner, may not claim reservation benefit at a later stage.

(9) As against the same, learned advocate appearing for the petitioner, who belongs to reserved category (EWS Category), but who, by the dint of the marks obtained by her, is entitled to be placed in the unreserved/general category, would submit that, subject to the submission made by learned Senior Counsel appearing for the respondent-Institute regarding the petitioner, if the petitioner is appointed, the petitioner would not raise any claim with regard to wages for the period during which she has not served, and whereas, the Institute may be directed to place

such petitioner at her appropriate place in the final merit list.

(10) Furthermore, learned advocate for the petitioner would submit that the petitioner, who claims placement on the basis of the marks obtained by her in the selection process, is not seeking such placement by virtue of EWS category and, more particularly, that she had not availed any benefit of relaxation available to the said category. In view of the above, the following **directions** would meet with the ends of justice:

(i) The respondent-Institute is **directed**, as per the statement made by learned Senior Advocate, Mr. Desai, to appoint the petitioner in the general category. As per the statement made by learned Senior Advocate Mr. Desai, the petitioner shall file an undertaking before this Court regarding giving up the claim of seniority over persons, who have already been appointed, as this appointment is made as a standalone special case, only for the present laboratory assistant advertisement, and the order shall not be treated as a precedent in any other appointment to be made by the institution in future.

(ii) Since the present order is passed on the consensus arrived at between the parties, the Court has not gone into the merits of the matter, and the same shall not be treated as a precedent in respect of other appointments of the Institution. The order cannot be used as a precedent to raise any claim whatsoever in future against the respondent-Institution.

(iii) The undertaking, which is to be filed by the petitioner, shall be filed by the petitioner within the period of **two weeks**, from today.

1.2 With the above directions, the petition stands **disposed of**, accordingly. Notice is discharged.

UMESH/-

(NIRZAR S. DESAI,J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: CHAVDA UMESH(HC00203), Principal pvt Secretary, at High Court of Gujarat on 30/03/2026 17:23:57