

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO.6980 of 2026

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MODI PRITIBEN DHARMESHBHAI

Versus

STATE OF GUJARAT & ANR.

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Appearance :

SUDHANSHU A JHA for the Petitioner.

MR PARTH PATEL, AGP for the Respondents No.1,2

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

Date : 07/05/2026

ORAL ORDER

Learned advocate Mr. Sudhanshu Jha states that the petitioner's contractual appointment is over on 24.4.2026 as 11 months period is over and the respondents with a view to give artificial break, have issued advertisement for recruitment for the post of Legal Officer (Prison and Correctional Administration). He further states that publication of the advertisement itself indicates that the respondents are in need of Legal Officer and despite that, inspite of continuing the petitioner's service, they have oped for fresh advertisement. He further states that it is a settled legal position that a contractual employee cannot be replaced by another contractual employee and the advertisement is only for contractual employment only and, therefore, though the petitioner's contract is over, the respondents may be directed to continue the petitioner as the post is lying vacant.

2. Learned AGP Mr. Parth Patel states that the petitioner's contractual appointment is over on 24.4.2026 and no

new contract is yet executed and, therefore, the petitioner has no right to continue on the post in question. However, he could not dispute that the petitioner is eligible and is meeting with all the required criteria for the post in question, which are stated in the detailed advertisement.

3. Learned advocate Mr. Jha submitted that in that case, this Court may clarify that it will be open for the petitioner to apply for the post in question without prejudice to his rights and contentions, during the pendency of this petition.

4. It is needless to state that it is always open for the petitioner to apply pursuant to the advertisement, keeping all the rights and contentions of the petitioner open.

5. **Notice returnable on 25.6.2026.** Learned Assistant Government Pleader waives service of notice on behalf of the respondents.

(NIRZAR S. DESAI,J)

SAVARIYA