

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/WRIT PETITION (PIL) NO. 154 of 2018****With****R/WRIT PETITION (PIL) NO. 10 of 2017****With****R/WRIT PETITION (PIL) NO. 83 of 2017****With****R/WRIT PETITION (PIL) NO. 109 of 2017**

=====

UMIYA PARIVAAR VISNAGAR & ANR.

Versus

STATE OF GUJARAT & ORS.

=====

Appearance:

MR.VISHAL J DAVE(6515) for the Applicant(s) No. 1,2

NIPUN SINGHVI(9653) for the Applicant(s) No. 1,2

MR GH VIRK LD. GOVERNMENT PLEADER for the Opponent(s) No. 1,2

MR ANAND L SHARMA(1714) for the Opponent(s) No. 3

=====

***CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA
AGARWAL******and******HONOURABLE MR. JUSTICE PRANAV TRIVEDI*****Date : 06/09/2024****ORAL ORDER*****(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL)***

1. When the matter was taken up, Mr. G. H. Virk, learned Government Pleader has put in appearance to present the case of the State Government in the matter of constitution of 'Other Backward Class Commission', where appointment of two Members is pending approval of the Hon'ble the Chief Minister of the State since the month of January, 2024.

2. We may note that when the matter was taken up on 25.01.2024, on the request made by the learned Assistant

Government Pleader appearing on behalf of the State, the matter was adjourned to enable the State Government to complete the process of constitution of Other Backward Class Commission. Thereafter, the next date fixed in the matter was 26.02.2024. Thereafter the matter could not be taken up on account of repeated sick notes sent by the learned advocate for the petitioners.

2.1. Be that as it may, when the matter was taken up today, the affidavit dated 22.02.2024 filed by the Deputy Secretary, Social Justice and Empowerment Department has been placed before us to make submission on the directions issued by the Hon'ble Apex Court in the case of ***Indra Sawhney v. Union of India*** reported in ***AIR 1993 SC 447*** to constitute the Gujarat State Backward Class Commission in terms of the guidelines issued by the Hon'ble Apex Court. There is a reference of the Government Resolution dated 18.03.1993 constituting the permanent body for Other Backward Class in the State of Gujarat. There is a further reference of the Government Resolution dated 07.12.1993 and the procedure to be adopted by the Commission for Other Backward Classes in the State of Gujarat. There is a narration about the role of the body of experts and its functions and the recommendations made by the Commission, as also the directions issued by the Hon'ble Apex Court in the case of

Indra Sawhney (supra) for constitution of a permanent body in the nature of commission to consider the complaints of wrong inclusion or non-inclusion of groups.

3. However, there is no answer as to why the process of constitution of Other Backward Class for appointment of two members has not been finalized. There is a complete silence on the direction issued by this Court in the order dated 25.01.2024 on the request made by the learned Assistant Government Pleader.

4. On the asking of the Court, the learned Government Pleader could not place the relevant Government Resolution prevailing as on date which provides for the constitution of Other Backward Class Commission. There is no answer to the queries made by the Court. The reference to the Government Resolutions as noted herein-before in the affidavit dated 26.02.2024, is of no relevance.

5. At this stage, the learned Government Pleader appearing for the State - respondent would pray for and is granted two weeks time to file affidavit of the Chief Secretary, Government of Gujarat, Secretariat, Gandhinagar to bring before the Court the current Government Resolution providing for constitution of Other Backward Class Commission and response to the observations made in the

order dated 25.01.2024, wherein on the request made by the learned Assistant Government Pleader, the matter was adjourned to enable the State Government to complete the process of constitution of Other Backward Class Commission.

As prayed, put up this matter on **20.09.2024**.

(SUNITA AGARWAL, CJ)

(PRANAV TRIVEDI,J)

phalguni