

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/MISC. CIVIL APPLICATION NO. 1027 of 2022****In R/SPECIAL CIVIL APPLICATION NO. 12026 of 2013**

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DEVBALABEN ARJANBHAI JETHVA

Versus

MUKESH PURI
=====

Appearance:

MR PJ MEHTA(467) for the Applicant(s) No. 1

MR DG CHAUHAN(218) for the Opponent(s) No. 2

NOTICE SERVED BY DS for the Opponent(s) No. 1

RONAK D CHAUHAN(7709) for the Opponent(s) No. 2
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CORAM: HONOURABLE MR. JUSTICE N.V.ANJARIA

and

HONOURABLE MR. JUSTICE NIRAL R. MEHTA**Date : 10/03/2023****ORAL ORDER****(PER : HONOURABLE MR. JUSTICE N.V.ANJARIA)**

Additional Affidavit dated 10th March, 2013 filed on behalf of respondent No.2 is tendered, which is taken on record.

2. It is the directions in common judgment dated 10.3.2022 in relation to the Special Civil Application No. 12026 of 20133, which are brought under contempt jurisdiction of this court in the present proceedings.

3. The directions pertained to extending the benefit of regularisation in service to the applicant-original petitioner in terms of decision of the supreme Court in **Gujarat Agricultural University vs. Rathod Labhu Bechar and others [(2013) 3 SCC 574]**. The apex court framed the

scheme.

3.1 It was under the said scheme that the benefit of regularisation is to be given to the applicant.

3.2 The directions contained in para-23 of the judgment of learned single Judge read as under,

“Therefore, considering the aforesaid circumstances and the decisions of the Court including that of the Hon’ble Supreme Court, this Court is of the view that the case of the petitioners is required to be taken into consideration for their entitlement to the benefit of the Scheme as approved by the Apex Court in the case of Labhu Bechar (Supra) and benefits under Clause 1 of the Scheme i.e. the benefit of regularization on completion of ten years ought to be granted. The respondents are directed to extend the benefits of Clause 1 of the Scheme framed by the Hon’ble Supreme Court in the case of Labhu Bechar (Supra) within a period of three months from the date of receipt of copy of this order. In case of those petitioners who have retired, their exercise shall be carried out by calling such petitioners after giving them an opportunity of hearing and benefits according to the scheme and consequential benefits be given within a period of three months thereafter. All these petitions are therefore allowed.”

3.3 Thus, the benefits as per clause (1) of the scheme are required to be granted. In this regard, it was submitted by learned advocate Mr. Paresh Mehta that in extending the benefits of regularisation of the applicant, the University has blissfully ignored the past services of the petitioner and has granted the benefits of midway discounting the earlier period of service.

4. We find a *prima facie* substance. Therefore, the present proceedings are required to be finally heard.

5. Rule, returnable on 11th April, 2023.

6. Learned advocate Mr. D. G. Chauhan for the University submitted that the university would require to file Letters Patent Appeal against the aforesaid common judgment and order of learned single Judge since according to his submissions, there is some ambiguity in the directions in para 23 aforequoted.

7. The court is dissuaded to express anything much less on merits of the course to be adopted by the University. However, since the Rule is made returnable, before the next date, it would be permissible for the university to take out any proceedings, as it may choose. However, it is made clear that if the orders are not complied with or any other order is not shown to have been passed, the Registrar of the University-respondent No.2 herein, shall remain present before the court at 11 a.m. on 11th April, 2023.

(N.V.ANJARIA, J)

(NIRAL R. MEHTA, J)

C.M. JOSHI