

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO.17578 of 2025

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RUHIJENAB SHABBIR GAZI

Versus

STATE OF GUJARAT & ORS.

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Appearance :

MS YASHVI SHAH FOR MR AD OZA for the Petitioner.

MR RAJ TANNA, AGP for the Respondents.

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CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI

Date : 13/01/2026

ORAL ORDER

At the outset, it is stated by learned advocate Ms. Yashvi Shah appearing for the petitioner that the State Government has passed an order dated 12.1.2026 whereby the benefits as prayed for is granted to the petitioner, subject to filing of proposed Letters Patent Appeal, that may be filed against the present order. In the above background, the matter was taken up and heard.

2. Heard learned advocate Ms. Yashvi Shah for learned advocate Mr. A.D. Oza for the petitioner and learned AGP Mr. Raj Tanna for the respondent No.1 – State.

3. By way of this petition, the petitioner challenges the action on part of the respondents of disqualifying the petitioner from the selection process, more particularly on the ground that the petitioner had exercised limited number of choices and the choices sought for by the petitioner had already been selected and allotted to the candidates more meritorious than the petitioner.

4. While the learned advocate for the petitioner had originally relied upon an order passed by this Court in Special Civil Application No.9425 of 2025 dated 16.09.2025, later on, learned advocate for the petitioner Ms. Shah would submit that as such, the reliance on decision dated 16.09.2025 was also not be required since the entire exercise of disqualifying candidates, who had not chosen all the options, was not on basis of any power available with the respondents. It would also be apposite to note that vide an order dated 26.09.2025, considering such a submission, this Court had called upon the respondents to state that as to whether the exclusion of the petitioner from selection process was in exercise of any Rules or Regulation as available with the respondents.

5. Today, learned AGP Mr. Tanna under the instructions of Sonalba G. Padhiyar, Joint Director, Commissioner of School, would submit that as such, the respondents did the entire exercise under a bona fide belief and whereas the Gujarat State Secondary and Higher Secondary Education Academic Staff Recruitment Selection Board does not have any Regulation, Rule or Government Notification based upon which they could disqualify the petitioner on the ground of exercising limited choices. At this stage, learned AGP Ms. Patel would submit that this Court may not set aside the final allotment list dated 27.06.2025 and whereas as of now around 15 vacancies are available in the post of Shikshan Sahayak and whereas the respondents would firstly offer those 15 posts to the petitioner and whereas the petitioner could select any vacancy of her choice and whereas it is submitted that the petitioner would be appointed on such a post.

6. Learned advocate Ms. Shah for the petitioner would submit that he would not have any objection and whereas learned advocate would further submit that since the entire issue has arisen on account of mistake of the respondents themselves, therefore, the petitioner may not be required to lose such seniority and other financial benefit. Such a request being fair, is required to be accepted.

6. To this Court, it would appear that the petitioner having been excluded from the selection process on account of an error by the respondents, more particularly since the respondents could not justify their action based on any Rules and whereas while the respondents are of the opinion that the said error could be rectified yet, to this Court, it would appear that the petitioner should not suffer any loss whatsoever i.e. either of seniority or financial loss on account of the error of the respondents.

7. Having regard to such observations, to this Court, the following directions would meet with the ends of justice :-

(a) The decision to cancel the candidature of the petitioner for the post of Shikshan Sahayak is hereby declared as illegal.

(b) The respondents shall forthwith give as per the statement, the offer choice of the 15 vacancies to the petitioner and whereas the respondent shall upon the petitioner exercising her option forthwith appoint the petitioner on the post in question.

(c) The petitioner shall be placed at her appropriate position in the seniority list of Shiskhan Sahayak, more particularly appropriate to her merit in the original select list / merit list.

(d) The appointment of the petitioner shall be with effect from the date the person immediately junior to the petitioner in merit list had been appointed and whereas the petitioner shall be entitled to all financial benefits / service benefits arising from the said appointment.

(e) The said benefits shall be paid to the petitioner within a period of two months from the date of her appointment. The earlier part of the order shall be complied with within a period fortnight from the date of receipt of this order.

8. With this observations and direction, the present petition stands disposed of as allowed. Direct service is permitted.

(NIRZAR S. DESAI,J)

SAVARIYA