

(2005) 02 GUJ CK 0003

In the Gujarat High Court

Case No : Special Civil Application No. 7477 of 1998

Bhemabhai Devabhai Barot

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 14-02-2005

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2005) 02 GUJ CK 0003

Hon'ble Judges : Sharad D. Dave, J

Bench : Single Bench

Advocate : Thakkar Assoc. for Petitioner Nos. 1-10, for the Appellant; Rita Chandarana, AGP for Respondent Nos. 1-2 and 4 and H.S. Munshaw, for the Respondent

Final Decision : Allowed

Judgement

Sharad D. Dave, J.—The present petition has been filed by the petitioners under Article 226 of the Constitution of India for appropriate writ, order or directions for quashing and setting aside the action of the respondents in not sending the petitioners for training for the post of Multi Purpose Health Workers commencing from 10/9/1998 and for directing the respondents to call the petitioners for training for the post of Multi Purpose Health Workers; and for restraining the respondents and their servants from imparting training commencing from 10/9/1998 for the post of Multi Purpose Health Worker to any person except without first calling all the eligible Superior Field Workers for the said training, pending admission, hearing and final disposal of this petition.

2. In this petition has been admitted by this Court (Coram : M.R. Calla, J.) vide order dtd. 20/11/1998.

3. Heard Ms. Pahva, learned counsel on behalf of M/s. Thakker Associates for petitioner Nos. 1 to 10 and Mrs. Rita Chandabara, learned AGP for respondent Nos. 1, 2 and 4 and Mr. HS Munshaw, learned counsel for the respondent No. 3.

4. Having heard the learned counsel for the respective parties and considering the material on record, it is clear that the petitioners are working as Superior Field Workers under the respondent No. 3 District Panchayat since more than 11 to 21 years as the case may be. The petitioners are appointed on the post of Superior Field Worker by the respondent Panchayat every year between June to October during the monsoon for spraying pesticides to kill insects spreading Malaria, under the National Malaria Eradication Scheme. The petitioners are appointed since last more than 11 to 21 years only for 4 to 5 months every year for the said purpose and though the petitioners are working since last 11 to 21 years, as the case may be, they have not been permanently absorbed and they get employment only for 4 to 5 months in a year. In such circumstances, the Government vide Resolution dtd.26/8/1992 has decided to give Superior Field Worker working under the Panchayat who have worked for 10 years or more consecutively under the season, having passed S.S.C. Examination and have not crossed 40 years of age as on 1/4/1991 should be sent for training of Multi Purpose Health Worker and on completing the training successfully, they should be appointed as Multi Purpose Health Worker. In view of the above, the Government Resolution, the State Government had made provision for 223 seats for training by making appropriate allotment of seats amongst the Panchayats and the total seat at present are increased up to 240 seats. In 1992, the first batch of 223 employees working under different Panchayats were given training by the State Government and thereafter the Government issued another resolution dtd.20/12/1995 deciding to abolish the Post of Superior Field Workers working under the Panchayat by giving relaxation in age etc. for their permanent absorption to the post of Multi Purpose Health Worker. After 1992, the State Government again decided to give training to Superior Field Worker of the second batch in 1998, which was scheduled to be commenced from 1/10/1998. It also appears that the petitioners fulfill the eligibility criteria as provided in the aforesaid GR dtd.20/12/1995 and though the petitioners are working under the respondents since more than 11 to 21 years as the case may be, they are entitled for training, the respondents without sending the petitioners for training, invited outsiders who are not in the employment of the respondent Panchayat for giving training for the post of Multi Purpose Health Workers.

5. Having heard the learned counsel for the respective parties and considering the evidence on record and considering the fact that though the petitioners are working since last more than 10 to 21 years, as the case may be, the respondents have not given training to them for the post of Multi Purpose Health Workers, though they have prerogative right for training and outsiders who are not in the employment of the District Panchayat, the respondents have called them for training, if necessary directions are issued, the ends of justice would be met. Hence the following order;-

The respondents are directed to consider the case of the petitioners for giving them training for the post of Multi Purpose Health Workers as per the Government Policy and Guidelines, more particularly Government Resolutions

dtd.26/8/1992, 20/12/1995 and 24/12/1999, and shall pass speaking and well reasoned order within a period of two months from the date of receipt of writ of this order and shall communicate the same immediately to the petitioners thereafter. The respondents are further directed not to give training for Multi Purpose Health Workers to any person without giving training to the petitioners as aforesaid.

In the result, this petition is allowed. Rule is made absolute.

The petitioners are at liberty to revive this petition, in case of difficulty.