

(2005) 04 GUJ CK 0028
In the Gujarat High Court

Case No : Special Civil Application No. 853 of 2001

Devle Vijaykumar Naranbhai

APPELLANT

Vs

Principal, MG Science and College

RESPONDENT

Date of Decision : 15-04-2005

Acts Referred:

Citation : (2005) 04 GUJ CK 0028

Hon'ble Judges : R.S. Garg, J

Bench : Single Bench

Advocate : D.R. Dave, for Mahendra K. Patel, for the Appellant; K.J. Brahmbhatt, for Respondent Nos. 1-2 and Archna Raval, AGP, for the Respondent

Final Decision : Dismissed

Judgement

R.S. Garg, J.—Heard learned counsel for the petitioner, Ms. K.J. Brahmbhatt, learned counsel for respondents Nos. 1 and 2 and Ms. Archna Raval, learned counsel for respondent no.3.

2. Petitioner being aggrieved by the order dated 27.12.2000 passed by the learned Member, Gujarat Affiliated Colleges Services Tribunal, Ahmedabad on Application No. 83 of 1998, whereunder petitioner's challenge to his termination was rejected, is before this Court.

3. Learned counsel for the petitioner submits that the petitioner did not submit his candidature, but in fact, his name was sponsored by the Employment Exchange and under such circumstances, no fault on his part could be found. His further submission is that not only the name of the petitioner, but number of other names were referred in response to the advertisement, wherein a post was to be filled by a Scheduled Tribe candidate. His submission is that though the petitioner belongs to Scheduled Caste but in absence of any fraud on his part, the Tribunal should have interfered in the matter and in any case, this Court must interfere in the matter, quash the termination order, specially in view of the facts that no inquiry before the termination has been made.

4. Undisputedly, the post on which the appointment was to be made, was reserved for a candidate belonging to the Scheduled Tribe. The case of the respondents is that the petitioner played fraud by submitting his candidature despite knowing the fact that he does not belong to Scheduled Tribe and was not entitled to be appointed. Be that as it may, even if I do not enter into the controversy that the petitioner played fraud or his name was sponsored by the Employment Exchange, even then, on the facts I will not be in a position to give any relief to the petitioner.

5. It is trite law that under the policy of reservation, when a seat is reserved for a particular class then unless there is specific direction by the authority, that the said reserved post may be filled by any other category the said reserved post cannot be filled in by any candidate not belonging to the category for which the post had been reserved.

6. True it is, that no inquiry was made before issuance of the order of termination, but that again in my considered opinion would not make any difference in this matter, because, the facts which are admitted, are sufficient for passing an order against interest of the present petitioner. In any case, principles of natural justice are not a rule of thumb or law of hammer. A person seeking shelter under the said rule must show to the Court that in absence of a notice to show cause or inquiry he suffered particular prejudice.

7. Taking into consideration totality of the circumstances and the reasons given by the Tribunal in rejecting the claim of the petitioner, I do not think that petitioner is entitled to any relief from this Court. Petition is dismissed. Rule is discharged.