

(1992) 12 GUJ CK 0025
In the Gujarat High Court

State of Gujarat and Others

APPELLANT

Vs

Laxmansing Sartansing and Others

RESPONDENT

Date of Decision : 07-12-1992

Acts Referred:

Citation : (1993) 1 GLR 279

Hon'ble Judges : S. Nainar Sundaram, C.J;R.K. Abichandani, J

Bench : Division Bench

Judgement

S. Nainar Sundaram, C.J.—This Letters Patent Appeal has got to be allowed when we take note of the pronouncement of a Bench of this Court in State of Gujarat and Another Vs. Saratsinh R. Sisodia and Others, .

2. The respondents, who have been in the cadre of Armed Police Constables, have been given promotions on 28-1-1980 as Second Grade Head Constables in the reserved quota as per a policy that prevailed before the introduction of the statutory rules effective from 6th August, 1979. Their promotions were, apparently, contrary to the statutory rules. On 2-4-1980 this mistake was set right. The respondents came to this Court by way of Special Civil Application No. 3061 of 1980, seeking to delete the proceeding dated 2-4-1980 and asking for their promotions being maintained. The learned single Judge, who dealt with the Special Civil Application, took note of a pronouncement of a learned single Judge of this Court in similar matters and deemed fit to allow the Special Civil Application. This Letters Patent Appeal is directed against the order of the learned single Judge

3. Miss Rekha M. Doshit, learned Counsel for the appellants, would submit that once it has been found that the promotions of the respondents happened despite the statutory rules coming into force and their promotions were contrary to the statutory rules, that alone has been set right and in the said circumstances, there cannot be a demur on the part of the respondents and they cannot insist to have promotions effected contrary to the statutory rules. The learned Counsel for the appellants pressed forth before us the pronouncement of the Bench, referred

to above, in support of her submissions. The Bench has countenanced that the promotion could be governed by the statutory rules and if on the basis of the statutory rules there could have been no occasion to make reservation for candidates-like the respondents herein, then such candidates could not insist for getting promoted depending upon a policy, which was prevailing anterior to the statutory rules. It is well settled that once statutory rules take charge, they alone must govern and if anything happened contrary to the statutory rules and that is set right, it is not possible to bring in any principle of estoppel to uphold and maintain a service position contrary to the statutory rules. Being guided by the above principle, we are obliged to allow this Letters Patent Appeal and we accordingly allow it, set aside the judgment of the learned single Judge, subject-matter of challenge of the Letters Patent Appeal and Special Civil Application No. 3061 of 1980 will stand dismissed. We make no order as to costs.

However, if it is permissible for the respondents to go by way of representation to plead for reliefs on any equitable principles, it is for them to do so and it is for the concerned Authority to consider the case as it may deem fit.