

(2010) 08 GUJ CK 0184

In the Gujarat High Court

Case No : Special Civil Application No. 2973 of 2010

Yadav Ramsinh Dhanavantsinh

APPELLANT

Vs

Secretary and Another

RESPONDENT

Date of Decision : 04-08-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 08 GUJ CK 0184

Hon'ble Judges : Mukesh R. Shah, J

Bench : Single Bench

Advocate : Krishna G. Rawal, for the Appellant; Trusha K. Patel, Asstt. Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

M.R. Shah, J.—By way of this petition under Article 226 of the Constitution of India, petitioner has prayed for appropriate writ, direction or order directing the respondent authority to allot the plot/accommodation to the petitioner as per the Government Resolution dated 03.07.2003.

2. An affidavit-in-reply is filed on behalf of the respondent specifically pointing that only those persons who were residing in huts prior to 1999 are required to be given alternative accommodation as pursuant to the Government Resolution dated 03.07.2003. It is further submitted that so far as petitioner is concerned, as it was found that petitioner was not residing in hut prior to 1999, name of the petitioner does not reflect in the list prepared by the authorities. It is the case on behalf of the petitioner that at the relevant time while doing videography, the portion where the petitioner is residing was left out. Therefore, there are disputed question of facts, whether petitioner was residing in the hut prior to 1999 and consequently whether the petitioner is entitled to get accommodation as per the Government Resolution dated 03.07.2003 or not?

3. The aforesaid disputed question of fact are not required to be gone into by this

Court while exercising powers under Article 226 of the Constitution of India. No documentary evidence is produced by the present petitioner to show that petitioner was residing in hut prior to 1999. Still, it will be open for the petitioner to approach the authority alongwith supporting documents to prove that petitioner was residing in hut prior to 1999 and as and when such a representation is made and if the petitioner is able to satisfy the authority that petitioner was residing in hut prior to 1999, the case of the petitioner shall be considered alongwith other persons. Considering the affidavit-in-reply, no relief can be granted in exercise of powers under Article 226 of the Constitution of India and present petition deserves to be dismissed and is, accordingly, dismissed with above liberty.