IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CIVIL APPLICATION NO. 1683 of 2020
In
F/LETTERS PATENT APPEAL NO. 13269 of 2020
With
R/CIVIL APPLICATION NO. 1825 of 2020
With
R/CIVIL APPLICATION NO. 1674 of 2020
With
R/CIVIL APPLICATION NO. 1837 of 2020
With
R/CIVIL APPLICATION NO. 1826 of 2020
With
R/CIVIL APPLICATION NO. 1680 of 2020
With
R/CIVIL APPLICATION NO. 1736 of 2020
With
R/CIVIL APPLICATION NO. 1739 of 2020

FOR APPROVAL AND SIGNATURE:

HONOURABLE THE CHIEF JUSTICE MR. VIKRAM NATH

and

HONOURABLE MR. JUSTICE J.B. PARDIWALA

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?	No
2	To be referred to the Reporter or not ?	No
3	Whether their Lordships wish to see the fair copy of the judgment ?	No
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	No

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STATE OF GUJARAT
Versus
KANANI MUKESHKUMAR VALLABHBHAI

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Appearance :
MS MANISHA LAVKUMAR, GOVERNMENT PLEADER(1) for Applicant(s) No. 1,2
MR. EKRAMA H QURESHI(7000) for the Respondent(s) No. 1

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CORAM: **HONOURABLE THE CHIEF JUSTICE MR. VIKRAM NATH**
and
HONOURABLE MR. JUSTICE J.B. PARDIWALA

Date : 24/12/2020
COMMON CAV JUDGMENT
(PER : HONOURABLE THE CHIEF JUSTICE MR. VIKRAM NATH)

1 This group of 8 appeals has been preferred by the State of Gujarat assailing the correctness of the judgment and order passed by the learned Single Judge in a group of Special Civil Applications and also other similar petitions whereby the petitions have been allowed extending the benefits extended by this Court in the case of **Acharya Madhavi Bhavin and 115 others vs. State of Gujarat, being Special Civil Application No.8152 of 2015**, decided vide judgment dated 07.09.2016 and subsequently modified by the Division Bench vide judgment dated 24.01.2018 passed in a group of appeals led by Letters Patent Appeal No.1184 of 2017 arising out of Special Civil Application No.8152 of 2015, Acharya Madhvi Bhavin and 87 others vs. State of Gujarat and 29 others.

2 The benefit extended was with respect to grant of salary and other benefits. All these appeals are preferred beyond the prescribed period of limitation and as such, the Civil Applications have been filed for condonation of delay. The said Civil Applications are

supported by affidavits. The reasons given for the delay are set out in the applications.

3 Objections in the form of counter affidavits have been filed in some of the cases stating that the delay in filing the appeal has not been satisfactorily explained. As such, the delay condonation applications deserve to be rejected. An additional point has also been taken by the respondents in paragraph 9 of one of the counter affidavits that under the Government of Gujarat Business Rules, 1990 framed under Article 166 of the Constitution of India, all the business of civil litigation on behalf of the State of Gujarat comes within the purview of the Legal Department. It is also stated that the Legal Department had opined that no appeal be filed but despite the same without proper sanction from the Legal Department, the appeals have been preferred as such the appeals are incompetent and deserve to be dismissed on this ground alone.

4 In response a rejoinder affidavit has been filed by the

State appellant stating that it is true that initially the Legal Department had opined not to file the appeal against the judgment of the learned Single Judge but later on upon a note being put up by the Finance Department, the matter was sent for reconsideration and it was only after receiving the approval of the Legal Department to file the appeals, the appeals have been preferred. The authorization letter of the Legal Department is also on record which would clearly indicate that there is due approval of the Legal Department to file the appeals.

5 According to the State appellant, the appeals are thus competent and the objections raised by the respondent is without any basis.

6 We have heard Ms. Manisha Lavkumar, learned Government Pleader for the State appellant – applicant, Mr. Ekrama Qureshi, learned counsel appearing for the private respondents on the delay condonation matters.

7 Once the State has come up with the material to show

that upon reconsideration, the Legal Department did grant approval, the objection raised by the respondent that the appeals were incompetent being lacking in approval of the Legal Department does not survive. It may be true that initially the Legal Department did not give its opinion for filing an appeal but later on once approval is granted and authorization letter is issued, no discrepancy or incompetency can be alleged. Accordingly, this objection is rejected.

8 Insofar as the explanation for the delay is concerned, it is clear that in the movement of the file for two rounds would itself indicate that it took more than normal time. We find that the explanation tendered is satisfactory. We accordingly condone the delay. The Civil Applications are accordingly allowed.

9 Office to register the appeals on the regular side and list them on 12.01.2021 for admission.

(VIKRAM NATH, CJ)

(J.B.PARDIWALA, J)

Gaurav