



**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**  
**R/LETTERS PATENT APPEAL NO. 1284 of 2025**  
**In R/SPECIAL CIVIL APPLICATION/23385/2017**  
**With**  
**CIVIL APPLICATION (FOR STAY) NO. 1 of 2025**  
**In R/LETTERS PATENT APPEAL NO. 1284 of 2025**

**FOR APPROVAL AND SIGNATURE:**

**HONOURABLE MR. JUSTICE BHARGAV D. KARIA**

**and**

**HONOURABLE MR.JUSTICE L. S. PIRZADA**

|                        |     |    |
|------------------------|-----|----|
| Approved for Reporting | Yes | No |
|                        |     |    |

GUJARAT VIDHYAPITH  
Versus  
RAXABEN ANILKUMAR PATEL & ANR.

Appearance:  
MR UDAYAN P VYAS(1302) for the Appellant(s) No. 1  
MS MAMTA R VYAS(994) for the Respondent(s) No. 1

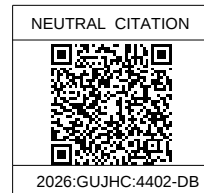
**CORAM: HONOURABLE MR. JUSTICE BHARGAV D. KARIA**  
**and**  
**HONOURABLE MR.JUSTICE L. S. PIRZADA**

**Date : 19/01/2026**

**ORAL JUDGMENT**

**(PER : HONOURABLE MR.JUSTICE L. S. PIRZADA)**

1. Heard learned advocate Mr.Udayan P. Vyas, appearing for the appellant and learned advocate Ms.Mamta Vyas, appearing on advance copy for respondent No.1.

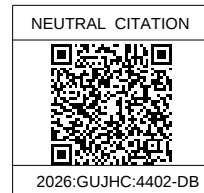


2. The present appeal is preferred under Clause 15 of the Letters Patent by the present appellant-original respondent No.1, being aggrieved and dissatisfied with the Judgment and Order dated 21.08.2025 passed by the learned Single Judge in Special Civil Application No.23385 of 2017. By the impugned Judgment and Order, the learned Single Judge has allowed the writ petition filed by the original petitioner-present respondent No.1 and has directed the appellant-original respondents to grant all consequential benefits to which the original petitioner is entitled, including payment of salary for the period from the date of termination, i.e. 30.11.2017, till the date of superannuation, i.e. 31.05.2018 and further directed the respondents to pay all retirement dues to the original petitioner.

3. The factual matrix of the present appeal is that the respondent-original petitioner applied for the post of Library Assistant pursuant to an advertisement dated 11.05.1983 issued by the appellant-original respondent

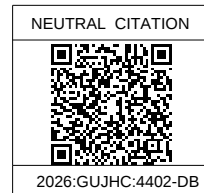


No.1-Gujarat Vidhyapith. The respondent had passed B.Com. in the year 1978 and Bachelor of Library Science in the year 1982 and thus possessed the requisite qualifications, being a graduate with a Bachelor's degree in Library Science. Since the respondent fulfilled the eligibility criteria, she applied for the said post and was subsequently appointed as Library Assistant by the appellant-Gujarat Vidhyapith vide Appointment Order dated 28.07.1983. As per the condition incorporated in the Appointment Order, the respondent was required to obtain an M.Com. degree within a period of two years, failing which she would not be entitled to implementation of the pay scale. Accordingly, the petitioner cleared the M.Com. examination in the year 1984 and submitted the relevant certificate to original respondent No.1 - Gujarat Vidhyapith. Though the M.Com. qualification was otherwise not required for the post, the said condition having been incorporated in the Appointment Order stood duly complied with by the original petitioner.



4. Thereafter, during the years 1986, 1987 and 1988, advertisements were issued for recruitment to various posts, including the post of Assistant Librarian (Class-I); however, no suitable qualified candidates were available. Consequently, upon issuance of the third advertisement dated 25.04.1988, the respondent applied for the said post. The prescribed qualifications were Post-Graduation along with a Bachelor's degree in Library Science and with experience. The respondent was selected by a duly constituted Selection Committee and was issued an Appointment Order dated 10.02.1989. The said appointment was a direct appointment and not by way of promotion. A condition was also incorporated in the Appointment Order requiring the petitioner to acquire M.Lib. degree within 2 years, which condition was duly fulfilled by the respondent in the year 1990 itself.

5. On 22.10.1996, the appellant-Gujarat Vidhyapith issued an advertisement for the post of Assistant Librarian (Lecturer) being a teaching post. The



respondent, along with two others, was issued an Appointment Order dated 24.10.1996. Subsequently, the University Grants Commission declined to grant approval to all the three said appointments. By that time, the respondent had already reached the pay scale of Assistant Librarian (Non-Teaching cadre). Therefore, the petitioner requested cancellation of the Appointment Order dated 24.10.1996 vide letter dated 19.04.2007. Pursuant thereto, the Vidhyapith passed Resolution No.10 dated 04.07.2007, whereby the respondent was reverted to the post of Assistant Librarian (Non-Teaching cadre), and thereafter, the benefit of Selection Grade was granted on 31.03.2008.

6. Thereafter, in the year 2015, during an inspection, an objection was raised to the effect that the respondent had neither cleared NET/SLET nor completed M.Lib. at the time of appointment. It was the case of the respondent that she had subsequently completed M.Lib. in 1990. Thereafter, a Show Cause Notice dated



08.02.2016 was issued, the respondent submitted a reply to the said Show Cause Notice on 09.02.2016 and also personally appeared before the authorities. A further Show Cause Notice dated 17.11.2017 was issued, which was replied to by the petitioner vide letter dated 24.11.2017. Thereafter, by Order dated 30.11.2017, the Vidhyapith terminated the services of the respondent and also directed recovery of Rs.75,04,006/- for the period from 01.08.1988 to 31.10.2017. Being aggrieved by the said Order, the respondent preferred a Special Civil Application No.23385 of 2017, which came to be allowed by the learned Single Judge.

7. In the said Writ Petition, respondent No.1 - the original petitioner had sought the following reliefs:

*“(A) Your Lordships may be pleased to issue a writ of mandamus or any other appropriate writ, Order or direction quashing and setting aside the Order dated 30/11/2017 and further be pleased to direct the respondents to continue the*



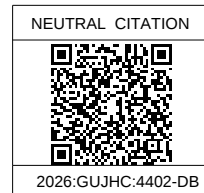
*petitioner on the post of Assistant Librarian and extend all the benefits of the post including pensionary benefits;*

*(B) Pending admission, hearing and final disposal of this Writ petition, Your Lordships may be pleased to stay the Order dated 30/11/2017 terminating the services of the petitioner and she may be allowed to continue on the post till the date of superannuation;*

*(C) Pending admission, hearing and final disposal of this Writ petition, Your Lordships may be pleased to direct the respondents to continue the petitioner on the post of Assistant Librarian pay the salary of the post to the petitioner every month;*

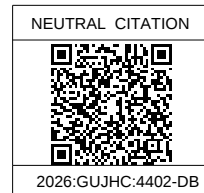
*(D) Be pleased to pass such other and further relief as may be deemed just and proper by Your Lordships in the facts and circumstances of the case."*

8. The learned Single Judge had allowed the petition and being aggrieved thereby, the present appeal has been preferred.



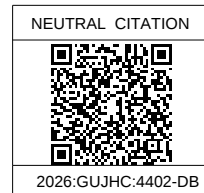
9. Learned advocate Mr.Vyas appearing for the present appellant – original respondent No.1, Gujarat Vidhyapith, submitted that the impugned Judgment and Order passed by the learned Single Judge is contrary to the provisions of law as well as the documentary evidence on record and therefore deserves to be quashed and set aside.

9.1. It was further submitted that the learned Single Judge has committed an error apparent on the face of the record in not dismissing the petition on the ground of non-joinder of the University Grants Commission (UGC), which was a necessary and proper party for adjudication of the issues raised in the petition. It was contended that the Order passed by the present appellant discontinuing the services of respondent No.1 had its genesis in the non-approval of his appointment by the UGC pursuant to objections raised in the audit report of the office of the Comptroller and Auditor General of India (CAG), and therefore, in the absence of the UGC, the petition ought not to have been entertained.



9.2 It was further submitted that the learned Single Judge erred in law in not appreciating that the UGC was not only a proper but a necessary party, and that without its presence, the issues raised in the petition could not have been effectively adjudicated. Despite the same, the petition was allowed, and hence the impugned Order deserves to be quashed and set aside.

9.3 It was also submitted that at the time of appointment to the post of Assistant Librarian, respondent No.1 did not possess the requisite qualifications. The post being a teaching post, approval by the UGC was mandatory; however, the UGC did not grant approval on the ground that respondent No.1 did not possess the essential qualification of NET/SLET. In spite of this, by quashing and setting aside the Order of discontinuation and directing payment of salary from the date of termination till the date of superannuation along with consequential retiral benefits, the learned Single Judge has effectively regularized the service of

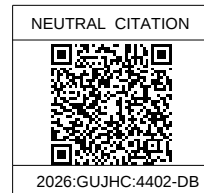


respondent No.1, which is contrary to the rules and regulations of the UGC and the Government of India.

9.4 It was further submitted that every appointment made by the present appellant is always subject to approval by the UGC, which fact was within the knowledge of respondent No.1. Since no approval was granted by the UGC, the discontinuation of service pursuant to the objection raised by the CAG was justified.

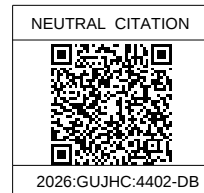
9.5 Therefore, it was submitted that the present appeal deserves to be allowed and the impugned Judgment and Order passed by the learned Single Judge deserves to be set aside.

10. On the other hand, learned advocate Ms.Mamta Vyas appearing on behalf of respondent No.1 submitted that the Order passed by the learned Single Judge is just, legal, and proper and does not call for any interference by this Court. It was therefore submitted that the present appeal deserves to be dismissed

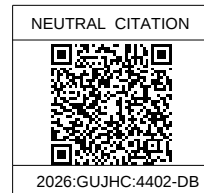


11. Further, the attention of this Court was drawn to the Judgment and Order dated 02.12.2025 passed by this Bench in Letters Patent Appeal No.1231 of 2025 arising out of Special Civil Application No.2580 of 2018 and allied matters, pertaining to Gujarat Vidhyapith, in respect of the post of Library Assistant.

12. Having heard the learned advocates for the respective parties and upon perusal of the record, this Court has considered the specific submission made by the learned advocate for the appellant that the UGC was not impleaded as a party and that it was a necessary or proper party to the proceedings. However, from the reply filed and the Order passed by the learned Single Judge, it appears that such an issue was never raised before the learned Single Judge and has been raised for the first time in the present appeal. It is not in dispute that the present respondent No.1 – original petitioner was initially appointed by Gujarat Vidhyapith as Library Assistant as



she possessed the requisite qualification of graduation along with Bachelor of Library Science. Subsequently, a condition was incorporated in the Appointment Order that respondent No.1 – original petitioner shall acquire the M.Com. degree within a period of two years, and till then she would not be entitled to implementation of the pay scale. Within the stipulated period, respondent No.1 acquired the M.Com. degree and produced the same before the competent authority. Thereafter, when an advertisement was issued by the present appellant for the post of Assistant Librarian (Class-I), the respondent applied. The prescribed qualification was post-graduation along with Bachelor of Library Science and experience. The respondent was selected and was granted time to acquire qualification of M.Lib./M.LISc. within two years, which requirement was also fulfilled by her. Subsequently, on the basis of an objection raised by the office of the CAG, the said appointment came to be cancelled.



13. In this regard, the issue as to whether the UGC has any role to play in the appointment made under the selection process undertaken by Gujarat Vidhyapith is required to be considered. In this context, attention was drawn to the affidavit-in-reply filed by the UGC in Special Civil Application No.3489 of 2018, which has been taken note of and incorporated in Letters Patent Appeal No.1231 of 2025, as under:

*"8. On the other hand, learned advocate Mr. Akshat Khare appearing for the UGC referred to and relied upon averments made in the affidavit-in-to reply filed in Special Civil Application No. 3489/2018 wherein, it is averred as under:*

*"4. I say and submit that the present petition has been preferred by the petitioner against her termination and for reinstatement with respondent Nos.1 and 2. It is the case of the petitioner that the respondent No.1 - Gujarat Vidhyapith had issued an*



*advertisement application for the post of Lower Division Clerk and Library Assistant. As per the said advertisement, the upper age limit was 25 years whereas the respondent No.1-Gujarat Vidhyapith had relaxed the said upper age limit to 45 years for those employees who had completed 5 years of service with respondent No.1-Gujarat Vidhyapith prior to 10/07/2010. Subsequently, the petitioner was appointed as a Library Assistant with effect from 02/06/2012 and thereafter pursuant to some audit observation and Comptroller and Auditor-General (CAG) observation, the petitioner was terminated from her service by the respondent No.1-Gujarat Vidhyapith. It is pertinent to note herein that the said post of Lower Division Clerk and Library Assistant does not come under the University Grants Commission (further referred as 'UGC') Regulations.*

*5. I further say and submit that the process of recruitment and by Central Funded Universities are required to be as per their respective acts and statutes. The respondent-UGC only issues directions on the pay-scale and the respective universities are under obligation to make appointments against only sanctioned posts by following norms of Government of India. As in the instant case, the respondent No.1- Gujarat Vidhyapith is fully funded deemed university and it is required to follow the GOI / DOPT norm in the matter of recruitment / selection in non-teaching post. However, all service rules including age of appointment for the sanctioned post would be governed by the rules made by State Government. Thus, the dispute involved in the present petition with regard to termination of*

*petitioner is an administrative issue of respondent No.1- Gujarat Vidhyapith for which UGC has no role to play. Therefore, the petitioner has wrongly impleaded respondent UGC as a party in the present proceedings and same is required to be deleted."*

*8.1 Referring to the above averments it was submitted that the UGC has never prescribed any regulation for the post of Lower Division Clerk and Assistant Librarian as they pertain to non-teaching staff. It was therefore, submitted that it is for the University to consider the eligibility criteria for appointment including the age of the candidate depending upon the rules and regulations framed by the State Government or Government of India as the case may be.*

*9. Having heard learned advocates for the respective parties and on perusal of the affidavit-in-reply filed by the UGC and considering the stand of the UGC, it appears that so far as the age relaxation decision taken by the Executive Counsel of*

*the appellant-University is concerned, it cannot be said to be contrary to any UGC guidelines and therefore, the appellant-University could not have terminated the services of the respondent No.1 after lapse of more than six years from the date of appointment.”*

14. Considering the dictum of the Division Bench of this Court, it becomes clear that the UGC has never prescribed any Regulation prescribing eligibility criteria for the post of non-teaching staff in Gujarat Vidyapith.

15. Considering the findings recorded by the learned Single Judge and the fact that the UGC has no role to play in appointments so far as non-teaching staff are concerned, the decision taken by the Executive Council of the appellant University cannot be said to be contrary to any UGC guidelines. Therefore, the appellant University could not have terminated the services of respondent No.1 after a lapse of almost 17 to 18 years.



16. The learned Single Judge has, therefore, rightly held that the Order dated 30.11.2017 terminating the services of respondent No.1, passed by the appellant-University, cannot be sustained in the eye of law.

17. The present appeal, therefore, being devoid of any merit, is accordingly dismissed. In view of the dismissal of the Letters Patent Appeal, the Civil Application does not survive and is accordingly disposed of.

**(BHARGAV D. KARIA, J)**

**(L. S. PIRZADA, J)**

STANCY GOMES