

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 2403 of 2025**

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NEHA VIVEK DWIVEDI & ANR.

Versus

HIGH COURT OF GUJARAT & ORS.

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Appearance:

SUDHANSHU A JHA(8345) for the Petitioner(s) No. 1,2

MS. TANUSHREE SHRIMAL, AGP for the Respondent(s) No. 3

IG JOSHI(8726) for the Respondent(s) No. 1

MR MJ MEHTA(5797) for the Respondent(s) No. 2

MR NANDISH H SHAH(11330) for the Respondent(s) No. 2

MR SAURABH J MEHTA(2170) for the Respondent(s) No. 2

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CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI**Date : 24/02/2025****ORAL ORDER**

1. Learned advocate Mr. Sudhanshu Jha for the petitioners, upon instructions, makes a statement that the petitioners by way of this petition, are seeking only participation in the recruitment process and even if, they are selected, till the dispute is resolved, they shall not claim appointment on the basis of mere participation.
2. However, considering the fact that it is the case of the petitioners that the institute from where the petitioners have completed their LL.B. and that institution is not considered to be a recognized institution who has preferred Special Civil Application No. 8293 of 2024 which is pending before this Court and there are other petitions also preferred by the atleast 20 colleges or their students.

3. Learned advocate Mr. Jha pointed out one of the order dated 21.10.2024 passed in Special Civil Application No. 13048 of 2024 and allied matters in case of Saiyed Mahammadjuber Yunusbhai and others V/s. Bar Council of Gujarat and others which is produced at page no. 26 of the petition alongwith order passed on the note for speaking to minutes which is produced at page no. 23 at Annexure C and the Court is apprised by learned advocate Mr. Jha as well as learned Senior Advocate Mr. Joshi appearing with learned advocate Mr. Desai for Gujarat High Court that in the matters, order of which are annexed alongwith the petition, the issue was pertaining to allowing the petitioners for appearing in All India Bar Examination and on the basis of provisional certificate issued by the Bar Council of Gujarat, the petitioners of those petitions were permitted to appear. Learned Senior Advocate Mr. Joshi also placed on record the instructions received from the administrative department of Gujarat High Court. Relevant portion of the instructions dated 21.02.2025 are reproduced as under:-

“In this connection, it may be further stated that, in view of the aforesaid stand taken by the Bar Council of Gujarat which in turn is subject to the order passed by the Hon’ble High Court in SCA No.13048/2024 dated 21/10/2024, it may be stated that as per the above Provisional Enrollment Intimation Letter dated 24/10/2024 issued by the Bar Council of Gujarat to the Petitioner, the Petitioner is only entitled to appear in the All India Bar Examination but the permission to practice as an Advocate has not been granted to them.

It may be further be stated that, for applying to the post of Civil

Judge, the Candidate must be a practicing Advocate as specified in Rule 7(b) of the Gujarat State Judicial Service Rules, 2005 as well as stipulation made in the Detailed Advertisement dated 30/01/2025. At this juncture, it may be stated that, in the eventuality of the instant Petitioners are being provisionally permitted to apply in the ongoing Direct Recruitment Process of Civil Judge, then in that case, they will not be able to provide the Name of the Court where they are actually practicing as well as the period from which date they have started their practice as an Advocate. Further, the same will be against not only the provisions contained in the extant Rules, 2005 but also against the stipulations made in the Instruction Nos. 2(i) and 10(6)(xii) of the Detailed Advertisement dated 30/01/2025, whereby only the candidate practicing as an Advocate as on the last date fixed for submission of Online Application are allowed to apply, further, it has been made mandatory for them to submit a Practice Certificate to be obtained from the Head of the Department of the Court Where they have actually practiced alongwith the date of practice actually started from.

*It may be further stated that, if the Petitioners are provisionally permitted, who are presently not allowed to practice as an Advocate by the Bar Council of Gujarat itself, from which Competent Authority they will bring the requisite Practicing Certificate and further how the Competent Authority will issue the requisite Practicing Certificate wherein it is mandatory to mention the number of years or the date from which the practice has actually been started by the concerned. **This will be in breach of the extant Rules of 2005 and the stipulations made in the aforesaid Advertisement.***

*At this juncture, it is pertinent to state that, the Recruitment Cell of this High Court has recently received a Representation from few similarly situated Candidates, upon being placed before the Honourable Central Recruitment Committee, the same was came to be rejected, **more particularly in view of the fact that Rule 7(b) of the Gujarat State Judicial Service Rules, 2005 provides that “a Candidate must be practicing as an Advocate in Courts of Civil and/or Criminal Jurisdiction on the last date fixed for receipt of application.”***

4. According to learned Senior Advocate Mr. Joshi, the sum and

substances of the instructions received by learned advocate Mr. Desai appearing for Gujarat High Court is that the certificate of practice is required to ascertain as to whether a person is practicing advocate or not, because all that is required to be stated in the application, as can be seen from the advertisement is that a person need to state while filling-up the form that since how long he is practicing to indicate his duration of practice and therefore, just to ensure that a person is a practicing advocate and not the non-practicing one, the certificate of practice is required.

5. Considering the above submissions as well as order dated 21.10.2024 passed in Special Civil Application No. 13048 of 2024 alongwith the order of note for speaking to minutes dated 23.10.2024, the Court, prima facie, finds that in the past also, the respondent – Bar Council of Gujarat has issued such certificate of practice on the basis of which the concerned applicants were permitted to appear in the All India Bar examination. Here the purpose may be different but at the same time, the fact remains that the petitioners who have studied from a college which is now facing the issue related to recognition and for which the petition is pending before this Court wherein the relief is granted, the present petitioners also deserve to be considered for the grant of relief, simply for the reason that at the outset, a statement is made by learned advocate Mr. Jha that the petitioners only seek participation in the recruitment process and until the issue about recognition is

decided, the petitioner shall not claim appointment on the post even, if, they are selected.

6. In view of above, following order is passed:-

Issue **NOTICE** to the respondents returnable on **27.02.2025**. Learned advocate Mr. Chintan Desai waives service of notice for and on behalf of the respondent no. 1, learned advocate Mr. Mehta waives service of notice for and on behalf of the respondent no. 2 and learned AGP Ms. Tanushree Shrimal waives service of notice for and on behalf of the respondent no. 3.

In the meantime, the respondent no. 2 – Bar Council of Gujarat is directed to issue provisional certificate of practice to the petitioners and the respondent no. 1 is directed to allow the petitioners only to the limited extent of participating in the recruitment process for the post of civil judges. However, no appointment shall be given to the petitioners even if, they succeed, till the issue about the recognition of the college from where the petitioners have studied is decided by the Court.

7. Learned advocate Mr. Mehta tenders an affidavit in reply. However, learned advocate Mr. Mehta is directed to submit the same in the Registry. The Registry to accept the same.

Direct service is permitted.

(NIRZAR S. DESAI,J)

VARSHA DESAI