

Gujarat High Court

===== VS

State Of Gujarat & on 16 December, 2014

C/SCA/5688/2002

JUDGMENT

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 5688 of 2002
With
SPECIAL CIVIL APPLICATION NO. 7145 of 2003
With
SPECIAL CIVIL APPLICATION NO. 1141 of 2004
With
SPECIAL CIVIL APPLICATION NO. 1143 of 2004
With
SPECIAL CIVIL APPLICATION NO. 1147 of 2004
With
SPECIAL CIVIL APPLICATION NO. 1149 of 2004
With
SPECIAL CIVIL APPLICATION NO. 1631 of 2004
With
SPECIAL CIVIL APPLICATION NO. 1173 of 2004

FOR APPROVAL AND SIGNATURE:

HONOURABLE THE ACTING CHIEF JUSTICE MR. VIJAY MANOHAR
SAHAI

and

HONOURABLE MR. JUSTICE R.P. DHOLARIA

=====

- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
- 2 To be referred to the Reporter or not ?
- 3 Whether their Lordships wish to see the fair copy of the judgment ?
- 4 Whether this case involves a substantial question of law as

to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

=====

GUJARAT URBAN COOPERATIVE BANKS FEDERATION & 1....Petitioner(s)

Versus

STATE OF GUJARAT & 1....Respondent(s)

=====

Appearance:

SCA NO. 5688 OF 2002:

MR. NANDISH CHUDGAR, FOR NANAVATI & NANAVATI, ADVOCATE for the Petitioner(s) No. 1 - 2

MR. KAMAL TRIVEDI, ADVOCATE GENERAL ASSISTED BY MR. UTKARSH SHARMA, AGP, for the Respondent(s) No. 1 - 2

SCA NO. 7145 OF 2003:

MR. B.S. PATEL, ADVOCATE, FOR THE PETITIONERS

MR. KAMAL TRIVEDI, ADVOCATE GENERAL ASSISTED BY MR. UTKARSH SHARMA, AGP, for the Respondent(s) No. 1 - 2

SCA NOS. 1141/2004, 1143/2004, 1147/2004, 1149/2004, 1631/2004

MR. SAURIN METHA FOR NANAVATI & NANAVATI, ADVOCATE, FOR THE PETITIONERS

MR. KAMAL TRIVEDI, ADVOCATE GENERAL ASSISTED BY MR. UTKARSH SHARMA / MS. SANGEETA VISHEN, AGPs, for the Respondent(s) No. 1 - 2

SCA NO. 1173 OF 2004:

MR. UDAY JOSHI, ADVOCATE, FOR THE PETITIONERS

MR. KAMAL TRIVEDI, ADVOCATE GENERAL ASSISTED BY MS. SANGEETA VISHEN, AGP, for the Respondent(s) No. 1 - 2

=====

=====

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE MR.
VIJAY MANOHAR SAHAI
and
HONOURABLE MR. JUSTICE R. P. DHOLARIA

Date : 16/12/2014

ORAL JUDGMENT

(PER : HONOURABLE THE ACTING CHIEF JUSTICE MR. VIJAY MANOHAR SAHAI) As all these petitions involve common issue, they are heard together and decided by this common judgement.

2. We have heard learned advocates appearing for the respective petitioners and learned Advocate General Mr. Kamal Trivedi assisted by learned AGP Mr. Utkarsh Sharma for the respondents.

3. For stating the facts in brief, we quote the relief prayed in Special Civil Application No. 1173 of 2004:

"(B) Your Lordships may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ or order holding and declaring that the impugned Notification dated 6.10.2003 is ultra vires, illegal, arbitrary, irrational, unsustainable and bad in law, discriminatory, against public policy and interest, violative of Articles 14, 19(1)(g) and 300A of the Constitution of India, unreasonable and oppressive and Your Lordships may also be pleased to hold and declare that the impugned Circular - letter dated 22.1.2003/6.2.2003 and the communications dated 30.10.2003 and 8.3.2004 are illegal, arbitrary, Page 3 of 5 C/SCA/5688/2002 JUDGMENT without authority in law, unsustainable in law, discriminatory and unjustified;

(C) Your Lordships may be pleased to issue a writ of mandamus or writ in the nature of mandamus and/or any other appropriate writ or order or direction quashing and setting aside the Circular -

letter No. MSB/1/Z-7/130/03 dated 22.1.2003/6.2.2003 issued by the Registrar, Co-operative Societies, Gujarat State, Gandhinagar, as well as the communication dated 30.10.2003 issued by the Registrar, Co-operative Societies, Gujarat State and communication dated 8.3.2004 issued by District Registrar, Co-operative Societies, Vadodara and declaring the same as ultra vires, illegal, arbitrary, unreasonable and unsustainable in law;

(D) Pending admission, hearing and final disposal of the present petition, Your Lordships may be pleased to stay the operation, implementation and execution of Notification dated 6.10.2003 and Circular dated 22.1.2003/6.2.2003 and be further pleased to restrain the respondent authorities to

take any action, much less issuing any direction, asking the petitioners and the members of the petitioner federation to set aside and pay 15% of the profit to the Gujarat State Cooperative Bank Ltd. for the purpose of crediting the same to the Urban Bank Credit Equalisation Fund, in pursuance of the Circular dated 22.1.2003 and communications dated 30.10.2003 and 8.3.2004;

(E) Pending admission, hearing and final disposal of

Page 4 of 5

C/SCA/5688/2002

JUDGMENT

the present petition, Your Lordships may be pleased to restrain the respondent authorities from directing and/or asking in any manner the petitioners and the members of the petitioner federation to set aside and deposit 15% of the profit to the Gujarat State Cooperative Bank Ltd., for the purpose of credit the same to the Urban Bank Credit Equalisation Fund."

4. After 2004, there have been various amendments in Gujarat Co-operative Societies Act, 1961. Therefore, we are of the opinion, that these petitions have become infructuous. We, therefore, dismiss all these petitions as having become infructuous with a liberty to the petitioners that the question of vires and the issues challenged in these petitions be challenged in appropriate writ petitions.

(V.M.SAHAI, ACJ.) (R.P.DHOLARIA,J.) (pkn) Page 5 of 5