

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 1126/1995

FRIDAY, THE THIRD DAY OF AUGUST, 2001

CORAM: SMT. LAKSHMI SWAMINATHAN. VICE CHAIRMAN (J)
SMT. SHANTA SHAstry. MEMBER (A)

1. Shri Dilipkumar Phakirbhai Patel,
Hindu, Adult, Indian inhabitant,
residing at Ambawadi,
Motidaman-396220
Union Territory of Daman and Diu.
2. Shrimati Kamuben N. Patel
3. Shri Sureshkumar Bhagubhai Patel,
Hindu Adult, Indian inhabitant,
Residing at Bhimpore,
Nanidaman-396210
Union Territory of Daman and Diu.
4. Shri Maheshkumar Ganpathbhai Patel,
Hindu Adult, Indian inhabitant
Residing at Bhimpore,
Nanidaman-396220
Union Territory of Daman and Diu.
6. Shri Rameshlaal Kanjibhai Tandel
7. Shrimati Upasanaben Krishnabhai Tandel
8. Shri Navinchandra Nanubhai Patel.
9. Shri Kameleshkumar Gondaabhai Tandel
10. Shri Dhirubhai Khushalbhai Patel
11. Shri Thakurbhai Kalidas Patel.
12. Shri Trivedi Nutan N.
13. Smrimati Pushpaben Jairambhai Patel
14. Shrimati Manjulaben Rameshbhai Patel
15. Shri Rameshbhai Ramjibhai Tandel
16. Shrimati Yeshwantiben Haribhai Tandel
17. Shrimati Urmilaben nanubhai Patel
18. Shrimati Meenaben Bhagubhai Patel
19. Shrimati Damayantiben Deenubhai Patel.

20. Shri Harkishanbhai Kalanbhai Patel
21. Shrimati Devyaniben Akhkhubhai Patel
22. Shri Vasantbhai Govindbhai Tandel
23. Shri Nagarbhai Paragbhai Patel
24. Smt. Urmilaben K.Tandel
25. Smt.Harshadaben C.Patel

All notices to be served
through Shri ~~K.R.Yelwe, NVM ASVINKAR~~
Advocate High Court,
Central Administrative Tribunal Bar Association,
3rd floor, Gulesthan Building,
Prescot road, Fort, Bombay-400001.

.....Applicants

V/s

1. Director of Education
office of the collectorate
Motidaman-396220.
2. To the Assistant Director
having its office near
Municipal Library,
Jetty Road,
Nanidaman-396210.
3. The Chief Secretary,
Secretariate,
Union Territory of Daman and Diu,
Motidaman-396220.
4. The Administrator
Administration of Daman and Diu
having its office at Secretariate
Motidaman-396220
5. Union of India
through the collector of Daman
office of the Collectorate of
Motidaman-396220
6. The Regional Employment Officer
The regional employment Exchange
Daman-396220.
7. The Development Commissioner,
Administration of Union territory
of Daman and Diu,
Daman.

ALL THE RESPONDENTS FROM 8 TO 55
ARE TO BE SERVED THROUGH THE
RESPONDENT NO.1.

8. Smt. Ramalaben Manchhubhai Kurkuttya
Hindu Adult, Indian inhabitant
Permanently Resident of District Valsad
State of Gujarat and
present address given
C/o V.A. Mala, Clerk,
State Bank of India,
Motidaman-396220
Union Territory of Daman and Diu.

9. Shrimati Saroj Pande
Hindu Adult, Indian inhabitant
Permanently resident of
Madhya Pradesh
and present address given
C/o Primary Health
Centre Campus, Fort Area,
Motidaman-396220
Union Territory of Daman and Diu.

10. Shrimati Kshitija Ramanlal Sharma
Hindu Adult, Indian inhabitant
Residing at PWD, Sub-Divn. No.-II,
Near Jetty
Nanidaman-396210
Union Territory of Daman and Diu.

11. Shrimati Urvashi Bhallabhai Tandel
Hindu Adult, Indian inhabitant
Residing at Katheria,
Tinbhatti Nanidaman-396210
Union Territory of Daman and Diu.

12. Smt Jenifar Junrocha
Christian Adult, Indian inhabitant
Permanent Resident of Vapi Ta.Pardi,
District Valsad and present address
given Vaniavad Jain st.
Nanidaman-396210
Union Territory of Daman and Diu.

14. Shri Imtiyaz Ali Hasambhai Momin
Muslim Adult, Indian inhabitant
Permanent resident of Hasol,
District Nadiyad
State of Gujarat,
present address given Khaibar
Apt. Near Bus stand
Nanidaman-396210
Union Territory of Daman and Diu.

15. Smt. Bhartiben Hirabhai Patel
Hindu Adult, Indian inhabitant
Perment resident of Karsar,
Uduwara R.S. Ta.Pardi,
District Valsad and present
address given Kulusum caceis
Tinbhatti
Nanidaman-396210

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16. Smt. Deviyaniben Mohanlal Patel
Hindu Adult, Indian inhabitant
Permanent Resident of Sarodhi,
Uduwada station, Ta. Pardi,
Dist. Valsad, State of Gujarat,
and spresent address
given Kachidam
Nanidaman-396210
Union Territory of Daman and Diu.
17. Shri Hirabhai Babubhai Patel
Hindu Adult, Indian inhabitant
Permanent resident of Goama,
Ta. Pardi, Dist Valsad,
State of Gujarat
Present address given
Village Dabhel,
Nanidaman-396210
Union Territory of Daman and Diu.
18. Smt. Lasitha Araya Kemady
Hindu Adult, Indian inhabitant
Permanent Resident of Kerala state
present address given
Coast Guard Air Station
Nanidaman-396210
Union Territory of Daman and Diu.
19. Smt. Nilaben Haribhai Patel,
Hindu Adult, Indian inhabitant
Permanent Resident of Salvav,
Koliwad, Ta. Pardi, Vapi,
Dist Valsad, Gujarat, and present
address given Katheria,
Nanidaman-396210
Union Territory of Daman and Diu.
20. Smt. Mamta Upendra Bhat,
Hindu Adult, Indian inhabitant
Permanent Resident of Vapi,
Taluka Pardi, Dist, Valsad,
Gujarat, Present address given
Kharawad,
Nanidaman-396210
Union Territory of Daman and Diu.
21. Smt. Ulkaben Kirachandra Bhat,
Hindu Adult, Indian inhabitant
Permanent Resident of Khatalwad,
Via Sanjan, Ta. Umergam,
and present address given
Marward Hospital Campus,
Nanidaman-396210
Union Territory of Daman and Diu.
22. Smt. Alkaben Naran Patel,
Hindu Adult, Indian inhabitant
Permanent resident of Kubhariya,
Pardi Station, Ta. Pardi.

Dist.Valsad, State of Gujarat
and present address given
Chunarwadi,
Boria Talao,
Nanidaman-396210
Union Territory of Daman and Diu.

23. Smt.Daxaben Gandabhai Patel,
Hindu Adult, Indian inhabitant
Permanent Resident of Vatar,
Ta.Pardi, Dist Valsad,
State of Gujarat and
present address given
village Dhabhel,
Nanidaman-396210
Union Territory of Daman and Diu.

24. Smt.Gitaben Banabhai Patel,
Hindu Adult, Indian inhabitant
Permanent Resident of Kokrala,
Udvada Station, Ta. Pardi,
Nanidaman-396210
Union Territory of Daman and Diu.

25. Shri Manojkumar Bhabubhai Patel
Hindu Adult, Indian inhabitant
Permanent Resident of Salvav Koliwad,
Vapi, Talukla Pardi, Dist. Valsad
State of Gujarat
and present address given village
Marwad,
Nanidaman-396210
Union Territory of Daman and Diu.

26. Smt.Nirmalaben Gopalbhai Tandel,
Hindu Adult, Indian inhabitant
Permanent Resident of Tin-Batti,Na
Nanidaman-396210
Union Territory of Daman and Diu.

27. Smt.Rasila Jivanbhai Tandel,
Hindu Adult, Indian inhabitant
Permanent resident of Glory Bar,
Jain Street,
Nanidaman-396210
Union Territory of Daman and Diu.

28. Smt Harendrakumar Patha,
Hindu Adult, Indian inhabitant
Permanent Resident of Khariwad,
Nanidaman-396210
Union Territory of Daman and Diu.

29. Shri Hiteshkumar Bhagawandas Gujjar,
Hindu Adult, Indian inhabitant
Permanent Resident of Zapa Bar,
Main road
Nanidaman-396210

30. Smt.Ashaben Kaushik Vaghela,
Hindu Adult, Indian inhabitant

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Permanent Resident of Mahyavanshi
Falia, Magarwad,
Nanidaman-396210
Union Territory of Daman and Diu.

31. Shri Jitendrakumar Amrutlal Parmar,
Hindu Adult, Indian inhabitant
Permanent Resident of Near
Vishvakarma Temple,
Kavikhabikabardar Marg
Nanidaman-396210
Union Territory of Daman and Diu.
32. Smt. Mayanaben Mangubhai Patel,
Hindu Adult, Indian inhabitant
Permanent Resident of Khariwad,
Patel Falia,
Nanidaman-396210
Union Territory of Daman and Diu.
33. Shri Rajeshkumar Dajibhai Tandel
Hindu Adult, Indian inhabitant
Permanent Resident of Kadaiya,
Machhiwad,
Nanidaman-396210
Union Territory of Daman and Diu.
34. Smt. Vanitaben Prembhai Tandel,
Hindu Adult, Indian Inhabitant,
Permanent Resident of Kadaiya,
Machhiwad, Nanidaman-396210
35. Smt. Jagruti Chatrubhug Thakkar,
Hindu Adult, Indian inhabitant
Permanent Resident of Khariwad,
Main Road,
Nanidaman-396210
Union Territory of Daman and Diu.
36. Shri Manujkumar Nathu Baria,
Hindu Adult, Indian inhabitant
Permanent Resident of Vanakbara,
Dist. Diu.
Nanidaman-396210
Union Territory of Daman and Diu.
37. Shri Arvindkumar Mansukhlal
Solanki,
Hindu Adult, Indian inhabitant
Residing at Bhimpore,
Nanidaman-396210
Union Territory of Daman and Diu.
38. Shri Hitendra Babu Kapadia,
Hindu Adult, Indian inhabitant
Permanent Resident of Ghoghla,
Dist. Diu.
Nanidaman-396210
Union Territory of Daman and Diu.

39. Shri Rameshchandra Parmanand Jethwa, Hindu Adult, Indian inhabitant Permanent Resident of Diu. Union Territory of Daman and Diu.
40. Shri Dineshchandra Govind Patel, Hindu Adult, Indian inhabitant Permanent Resident of Diu. Union Territory of Daman and Diu.
41. Shri Krishnakumar Chhunilal Bariya, Hindu Adult, Indian inhabitant Permanent Resident of Diu. Dist. Diu. Union Territory of Daman and Diu.
42. Shri Dhamendra Devji Baria, Hindu Adult, Indian inhabitant Permanent Resident of Diu. Dist Diu. Union Territory of Daman and Diu.
43. Shri Maheshkumar Ramanlal Patel, Hindu Adult, Indian inhabitant Permanent Resident of Bhimpore, Char rasta, Nanidaman 396210. Union Territory of Daman and Diu.
44. Shri N.R.Sikotaria, Hindu Adult, Indian inhabitant Presently Residing at Coast Guard, Nanidaman-396210 Union Territory of Daman and Diu.
45. Smt.Smrutiben Sukkarbhai Tandel, Hindu Adult, Indian inhabitant Presently Residing at Near Sales Tax office, Nanidaman-396210 Union Territory of Daman and Diu.
46. Shri Jitendra Karshan Patel, Hindu Adult, Indian inhabitant Permanent Resident of Diu, Dist. Diu Union Territory of Daman and Diu.
47. Smt.Aradhana Gourishankar Smart, Hindu Adult, Indian inhabitant Permanent Resident of Diu, Dist Diu. Union Territory of Daman and Diu.
48. Smt.Ludovico Julio Almedia, Christian Adult, Indian inhabitant Permanent Resident of Daman. Union Territory of Daman and Diu.

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49. Shri Bharatkumar Premabhai Patel,
Hindu Adult, Indian inhabitant
Permanent Resident of Lohar Falia,
Motidaman-396220
Union Territory of Daman and Diu.

50. Smt. Meenakshiben Kanjibhai Patel
Hindu Adult, Indian inhabitant
Permanent Resident of
Dhakaliniwadi,
Nanidaman-396210
Union Territory of Daman and Diu.

51. Shri Nanji Harsan Solanki,
Hindu Adult, Indian inhabitant
Permanent Resident of Diu.
Dist. Diu.
Union Territory of Daman and Diu.

52. Shri Vijaykumar Bhagawanbhai Raut,
Hindu Adult, Indian inhabitant
Presently residing at Yogeshwar
Mandir road
Motidaman-396220
Union Territory of Daman and Diu.

53. Vandhana Laljibhai Kamalia,
Hindu Adult, Indian inhabitant
Permanent Resident of Diu.
Dist. Diu.
Union Territory of Daman and Diu.

54. Shri Jayesh Ramanlal Patel
Hindu Adult, Indian inhabitant
Permanent Resident of Village
Bhimpore, Char Rasta,
Nanidaman-396210
Union Territory of Daman and Diu.

55. Shri Ishwarlal Somabhai Tandel,
Hindu Adult, Indian inhabitant
Permanent Resident of Kadiya,
Machhiwad,
Nanidaman-396210
Union Territory of Daman and Diu.

ORDER (ORAL)

Smt. Shanta Shastry.

... Member (A)

This OA is about the selection for the post of Assistant Teacher/Primary Teacher in the Administration of Daman and Diu held on 14th October, 1992. The applicants along with the private respondents appeared for the selection, but did not succeed. The respondents No. 8 to 55 were selected vide order dated 5.12.94. In this OA, the applicants have challenged the aforesaid selection of the respondents 8 to 55 and non-selection of the applicants.

2. There are, in all 25 applicants, who have filed this application. However, we do not find any MP seeking permission to file a joint application under Rule 4 (5) of the CAT (Procedure) Rules, 1987.

3. Further, when the matter was taken up for final hearing, the learned counsel for the respondents Shri R.R. Shetty produces an affidavit dated 30th July, 2001 sworn by applicant No.1, Shri Dilip Kumar Patel. The same is taken on record. The applicant No.1 has stated in this affidavit that he had appeared for selection and had not got through the selection and had approached this Tribunal with a grievance. He now, has been appointed as Primary Teacher in the Administration of Daman & Diu, on 17th August, 1998 and being satisfied, he does not want to pursue the OA further and therefore,

would like to withdraw the same with immediate effect. He also stated that he would undertake to inform all the co-applicants and assures that none of them will object to this affidavit. The applicant had taken leave of the other 24 applicants. Further, the learned counsel for the applicants also submits that the other applicants have not contacted him for quite some time.

4. In view of the fact that the applicant No.1 wishes to withdraw the application and there is no M.P. for joining of other applicants, the OA deserves to be dismissed on this ground alone.

5. On merits, the learned counsel for the applicants submits that the selection was not made properly as some of the respondents out of the respondents 8 to 55 had obtained a caste certificate in Daman & Diu, based on a caste certificate issued by Government of Gujarat. They were rank outsiders and therefore, they should not have been selected.

6. The learned counsel for the respondents, however, contends that the selected candidates have fulfilled the requisite condition of six months' domicile in Daman & Diu and therefore, there is no flaw in the

selection procedure. Further, all these applicants appeared in the selection, waited for the results to come and having failed, they have approached the Tribunal now. Having failed in the selection, the applicants cannot make a grievance of it now. The learned counsel for the respondents relies ^{on} Madanlal & Others Vs. State of J & K (1995 (2) SLR 209) wherein, it has been held that once the candidate had taken a chance of appearing in the selection, he cannot challenge the validity of the same, especially after the candidate has failed. We are bound by the judgment of the Supreme Court and the same applies fully in the facts and circumstances of the present case also.

5. In the facts and circumstances of the case, the application fails both on procedural ^{lapse} as well as on substantial law. No costs.

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(SMT. SHANTA SHAstry)
MEMBER (A)

Lakshmi Swaminathan

(SMT. LAKSHMI SWAMINATHAN)
VICE CHAIRMAN (J)

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dt. 3/8/01

*2nd
at (s)*

on 7/19/01

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