

HIGH COURT OF GUJARAT

ALPS EXIM PRIVATE LIMITED

Versus

STATE OF GUJARAT & 2 OTHER(S)

Date of Decision: 03 February 2023

Citation: 2023 LawSuit(Guj) 582

Hon'ble Judges: [Biren Vaishnav](#)

Case Type: Special Civil Application

Case No: 2647 of 2019, 2645 of 2019

Subject: Constitution

Acts Referred:

[Constitution Of India Art 226](#)

Final Decision: Petition disposed

Advocates: [Rohan L Shah](#), [M/S Nanavati Associates](#)

Biren Vaishnav, J.

[1] Heard learned advocates for the respective parties. Perused the record.

[2] In both these petitions, under Article 226 of the Constitution of India, the petitioners have prayed for a direction to treat the applications of the petitioners as valid applications as per the new policy dated 3.10.2018 and decide the same as per new policy at par with the other applications of the applicants covered in Misc. Civil Application Nos.905-914 of 2018 in Special Civil Application Nos.203397-20406 of 2017.

[3] Mr. Rohan L. Shah, learned advocate for the petitioners would draw the Court's attention to an order passed by the Division Bench of this Court in a group of applications filed under the provisions of the Contempt of Courts Act, 1971. Having regard to the facts and circumstances of the case, applications were disposed of with a direction to the respondents to treat the applications already filed by the applicants as valid applications as per new policy dated 3.10.2018 and disposed of the said applications with a direction to decide the same within a period of six weeks from the

date of receipt of the order. Mr. Rohan L. Shah, learned advocate for the petitioners would want a similar relief and direction as given by the Division Bench of this Court in Misc. Civil Application Nos.905 of 2018 and allied matters.

[4] Mr. Rohan Shah, learned Assistant Government Pleader for the respondent - State would invite the Court's attention to the reply filed on behalf of the competent authorities and submit that the applications of the petitioners were scrutinized by the District Collector. As per the new policy of 3.10.2018, it is evident that the grant of lease for fisheries and rearing aqua culture is to be undertaken after the auction and, therefore, on coming into force of the policy of 3.10.2018, the applications of the petitioners have been rejected. The communication dated 31.12.2018 is placed on record.

[5] Considering the submissions made by the learned advocates for the respective parties, reading the order dated 4.10.2018 passed in Misc. Civil Application Nos.905 of 2018 and allied matters of Division Bench (Relevant para nos.5 to 8 are reproduced hereunder) and reading the letter dated 31.12.2018, the applications of the petitioners have to be considered in light of the policy dated 3.10.2018.

"5. In view of the stand of the respondents and further in view of the policy dated 03.10.2018, it cannot be said that there is willful and deliberate violation of the order passed by this Court by the respondents, attracting the provisions of the Contempt of Courts Act, 1971. But, at the same time, when the applicants have already filed their applications, there is no reason to direct the applicants herein to file a fresh application as per the new policy.

6. Having regard to the facts and circumstances of the case, we deem it appropriate to dispose of these applications with a direction to the respondents to treat the applications already filed by the applicants herein, as valid applications as per new policy dated 03.10.2018, and dispose of the said applications/representations as per new policy within a period of six weeks from the date of receipt of this order.

7. It is made clear that we have not expressed any opinion on merits, and it is open for the respondents to consider the applications on its own merits pursuant to policy dated 03.10.2018. It is also to be noticed that as the applications were filed in the year 2007, as such, we expect the authority to decide and communicate the decision to the applicants within the time granted.

8. Subject to above, the applications stand disposed of."

[6] In light of the order dated 4.10.2018 passed in Misc. Civil Application Nos.905 of 2018 and allied matters, the respondents are directed to consider the applications in accordance with law keeping in mind the orders and the observations made by the Division Bench quoted hereinabove within a period of eight weeks from the date of receipt of copy of this order.

[7] Both these petitions stand disposed of in above terms. Notice is discharged. Direct Service is permitted. No order as to costs.

