

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 15094 of 2024

With

R/SPECIAL CIVIL APPLICATION NO. 15095 of 2024

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HEMALKUMAR VINODBHAI DODIYA & ORS.

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR NK MAJMUDAR(430) for the Petitioner(s) No.

1,10,2,3,4,5,6,7,8,9

MS HETAL PATEL, ASST.GOVERNMENT PLEADER/PP for the
Respondent(s) No. 1,2,3

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**CORAM:HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
SUNITA AGARWAL**

and

HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 30/10/2024

ORAL ORDER

**(PER : HONOURABLE THE CHIEF JUSTICE
MRS. JUSTICE SUNITA AGARWAL)**

1. The draft amendments filed along with the affidavit dated 28.10.2024 is not supported by any affidavit and have been filed in the Registry.

2. We may record that such an amendment cannot be entertained if not supported by a proper amendment application within the meaning of Order VI Rule 17 of the Code of Civil Procedure. The Registry ought not to have entertained the draft amendment filed to add factual statement in the body of the writ petition.

3. The contention of the learned counsel for the petitioner, that as per the prevailing practice in this Court, the draft amendments are permitted without application and affidavit, if the matter is at the admission stage, is not acceptable to us, for the simple reason that the amendments, which are formal in nature, namely in the grounds or the prayer clause of the writ petition, primarily legal in nature, may be permitted be carried out by way of draft amendment without being supported by any application filed along with an affidavit, under the order passed by the competent Court looking to the nature of relief.

4. However, the amendments in the body of the writ petition, which pertain to the factual assertions, have to be filed strictly in accordance with the procedure prescribed under Order VI Rule 17 of the Code of Civil Procedure. Meaning thereby, the amendments are to be made by moving an application supported by an affidavit under Order VI Rule 17 of the Code of Civil Procedure.

5. We, therefore, do not find it fit to accept the draft amendments dated 28.10.2024, on affidavit, which are not supported by any application filed on behalf of the petitioner. The draft amendments are, therefore, rejected. However, liberty is granted to the counsel for the petitioner to move a proper application seeking for amendment of the writ petition.

6. This order be circulated by the Registrar (Judicial) in his department so as to ensure compliance of the directions contained herein. The order be also kept on the website for information to all concerned and a copy be circulated to the President, Bar Association for placing it on the Notice Board of the Bar Association.

(SUNITA AGARWAL, CJ)

SAHIL S. RANGER

(PRANAV TRIVEDI,J)