

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/WRIT PETITION (PIL) (WRIT PETITION (PIL)) NO. 105 of 2019**

SUO MOTU

Versus

STATE OF GUJARAT & ANR.

Appearance:

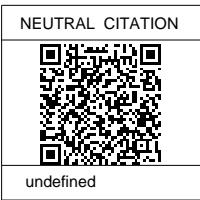
LAW OFFICER BRANCH(420) for the Applicant(s) No. 1

MR. KM ANTANI(6547) for the Applicant(s) No. 1

MR G. H. VIRK, GOVERNMENT PLEADER for the Opponent(s) No.
1,2**CORAM:HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA
AGARWAL
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI****Date : 18/07/2024****ORAL ORDER****(PER : HONOURABLE THE CHIEF JUSTICE
MRS. JUSTICE SUNITA AGARWAL)**

[1] In spite of sufficient time granted by this Court, there is no response on the part of the State Government to comply with the directions of the Apex Court in the judgment and order dated 11.03.2019 in the case of **Manish Kumar VS. Union of India and Ors.** in the matter of filling up the vacant post of constable, sub-inspector etc. in the Police Department of the State, which reads as under:

"A. Direction to all the States & Union Territories to constitute Police Commission to deal with allegation of police action,



redressal of grievances of police and to make recommendations for the welfare of police force.

B. Directions to the States to formulate and implement the guidelines for prevention and control of violent mass agitations and destruction of life & property, in terms of the guidelines suggested by this Hon'ble Court in the decision reported as 2009(5)SCC 212.

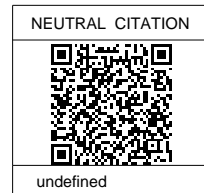
C. Directions to the States and Union Territories to fill up the vacant posts in the Police and State Armed forces so that the police forces does not remain overburdened.

D. Directions to all the States and Union Territories to provide for periodic training and upgradation of police force and to fix the working hours for the police personnel.

E. Direction to the Union of India to prescribe guidelines for the Media Reporting of the violent mass agitation and police action for prevention and control thereof.

F. Order or Direction restraining the States from drawing a presumption against the action of police acting under the constitutional and statutory obligations."

[2] Sketchy affidavit has been filed by the Under Secretary, Home Department, Government of Gujarat to bring before us a data with regard to filling up of vacancies, which was not convincing. Another affidavit of the Secretary, Home Department dated 01.07.2024 has been filed, which was lacking in all material particulars. On the last date fixed i.e. 04.07.2024, we have adjourned the matter to enable the

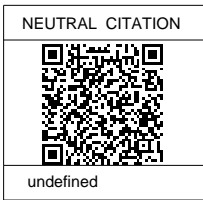


learned Assistant Government Pleader to bring the complete facts before us, by filing fresh affidavit of the Secretary, Home Department.

[3] Today, when the matter was taken up, no affidavit of the Secretary, Home Department was brought before us. It is submitted by Mr. G. H. Virk, learned Government Pleader that the material received by him is not satisfactory and hence, as per his own advice, affidavit cannot be filed in this Court for placing incomplete material on record. Prayer has been made to grant further time to complete the process and bring an exhaustive affidavit before us.

[4] We may note that this matter is on the list for a period of more than one year. The last order dated 28.04.2023 was passed by this Court asking the Respondent Authority to file affidavit apprising the Court in the matter of filling up of vacancies and by doing the needful. On 30.01.2024, we have required the learned Assistant Government Pleader to place the vacancy position on record. Repeated adjournments have been sought on one or other grounds.

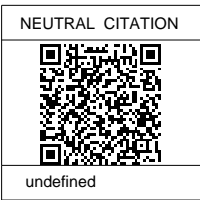
[5] In the Order dated 13.06.2024, we have noted that a detailed report reflecting the vacancy position as on 31.03.2023 and further on 31.03.2024, has been placed before us. There was slight variation in the number of sanctioned



posts and further, it was noted that no recruitment exercise, either by way of promotions or by way of direct recruitment, has been undertaken during the last one year i.e. after 31.03.2023. The explanations offered for not filling up the posts were rejected as being not convincing.

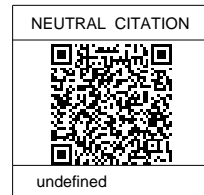
[6] It was further noted that even the Constitution of the Police Commission has not been brought on record correctly. Though, vide Government Resolution dated 07.03.2024, the Gujarat Police Recruitment Board has been notified with the constitution of the Board and the guidelines but, there is complete silence about nominating the members for constituting the Board. Noticing all the above discrepancies, the affidavit of the Secretary, Home Department, Gandhinagar had been sought for.

[7] We may note that in the affidavit dated 01.07.2024 of the Secretary, Home Department, it is sought to be submitted that a blueprint to complete the recruitment / promotion process on the vacant post of Police Department is being produced in the tabular form appended as Annexure – R-1. With regard to the members constituting Gujarat Police Recruitment Board, it is stated that the said Board would be constituted of one Chairman and four Members. It is surprising that without constitution of Gujarat Police Recruitment Board, one officer holding the post of DGP (Director General of



Police) has been nominated / appointed as a chairman of the Gujarat Police Recruitment Board vide Office Order dated 17.08.2023, which was not in existence, though the Board had not been constituted by the said date.

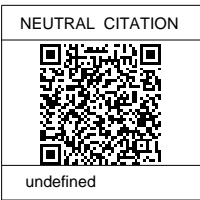
[8] The affidavit of the Secretary, Home Department, further indicates that the process to fill up the post of further members is on. Further, from the chart appended along with the affidavit in tabular form, for many posts such as *un-armed Police Sub Inspector, un-armed Police Constable, armed Police Constable, Armed Police Constable (SRPF), Police Inspector (armed)*. Though, the vacancy position is huge, but decision has been taken to fill up lesser number of posts. For example, we may note that as per the data given in the table appended at Page '206' of the Paper-book, out of 39,880 sanctioned posts of *unarmed Police Constable*, 26,145 are working whereas, the vacancies against the said post is 13,735, out of which, decision has been taken to fill up only 6600 posts i.e. almost 50% of the vacant posts. Similar is position for *armed Police Constable*, where vacancies are 6348 and the decision has been taken to fill up only 3302 posts. For *Armed Police Constable (SRPF)*, the vacancies are 4200 whereas, decision is taken to fill up 1000 posts. For *unarmed Police Sub Inspector*, the vacant posts are 1606 and the decision has been taken to fill up only 1302 posts.



[9] When these facts were noted by us on the last date fixed i.e. 04.07.2024, we have granted time to the learned Assistant Government Pleader to file a fresh affidavit of the Secretary, Home Department, which has not been brought before us till date.

[10] Before parting with this order, we may note that it is not understandable as to why, in an exercise for recruitment, where there would be expenditure of huge amount of public money, when the number of vacancies to the post of Police Constable, Police Sub Inspector etc. are huge, what went behind the decision to fill up only 50% of the vacant posts, that too when the recruitment exercise has not been undertaken for more than one year as per own averments of the Respondents in the affidavits filed before us. The Court may also take judicial notice of the fact of large number of unemployed educated youth waiting for such recruitment exercise.

[11] We may further record that we have taken strong exception to the manner in which this matter is being dealt with at the ends of the Home Department of the State, which is responsible for maintaining law and order situation in the State. The vacancies in the Police Department directly affects the life of general public, who are now left at the mercy of the officers of the Home Department, who are not ready to



even listen to the concern of this Court in the present Public Interest Litigation. All these issues are reflection of a sorry state of affairs at the ends of the Home Department of the State.

[12] Taking a break at this moment, giving last opportunity to the learned Government Pleader to bring the correct position with regard to the vacancies and the decision of the Competent Authority to fill up all the vacancies of the posts noted hereinabove, as a last opportunity, we post the matter on **26.07.2024** at **01:00 pm**, to enable him to bring the personal affidavit of the Home Secretary, Government of Gujarat in strict compliance of the direction of the Apex Court in **Manish Kumar (supra)** failing which, this Court may take adverse view of the matter.

(SUNITA AGARWAL, CJ)

(PRANAV TRIVEDI,J)

SAHIL S. RANGER