

News

Gujarat High Court rejects suit against composition of Uniform Civil Code panel.



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Gujarat High Court, Uniform Civil Code

The Gujarat High Court recently dismissed a challenge challenging the membership of a committee set up to assess the necessity of applying Uniform Civil Code (UCC) in the State [Abdul Vahab Mohammed Shabbir Sopariwala v. State of Gujarat].

The suit filed by one Abdul Vahab Mohammed Shabbir Sopariwala sought reconstruction of the committee since it lacked participation from minority populations.

However, Justice Niral R Mehta said that the committee was created through an executive order and in the lack of any statutory mandate, the selection of its members was wholly within the State's discretion.

"In view of the aforesaid discussion, this Court is of the firm opinion that once the Committee has been constituted purely by executive order under Article 162 of the Constitution of India, in absence of any statutory provisions to the contrary, selection of particular members for constitution of Committee would be within the absolute domain of the State Government and thereby, it is perfectly justified for the State authorities to select the members of the Committee and for which a writ of Mandamus cannot be issued," the Court held.

Justice Niral Mehta and Gujarat HC

The Court further remarked that mere establishment of a committee cannot be argued to constitute prejudice to any class of individuals, especially while it remains available to participation by all elements of the society.

Chief Minister Bhupendra Patel had on February 4 announced the establishment of the committee.

The committee was entrusted with analyzing the necessity for a UCC and preparing a bill in that regard.

The committee is led by retired Supreme Court judge Justice Ranjana Desai and its members include retired IAS officer CL Meena, barrister RC Kodekar, former Vice-Chancellor of Veer Narmad South Gujarat University, Dakshesh Thakar and social activist Geetaben Shroff.

The petitioner sought a direction to the State government to reconstitute the committee with fresh members possessing appropriate knowledge and competence on the topic.

Additionally, Sopariwala urged the Court to direct the government to develop a consultative procedure that includes all religious and cultural communities before advancing with any measures toward implementing the UCC.

Sopariwala's attorney stated that as the committee was constituted to review the necessity of implementing the UCC which would effect numerous personal laws like as Hindu Law, Muslim Law etc, it would undoubtedly harm multiple minority populations including Muslims, Christians, Parsis and Sikhs.

It was further asserted that the committee lacked representation from the minority communities.

The counsel for the State stated that as the petitioner has not challenged the State government's jurisdiction to create the committee under Article 162 of the Constitution, he cannot query the selection of its members.

He maintained that a writ of mandamus cannot be issued to dispute the appointment or selection of committee members as the establishment of such a committee is an administrative decision and not a statutory necessity.

After reviewing the arguments, the Court determined that the establishment of the committee was not carried out under any statutory provision.

"The said Committee is not having any character of statutory in nature. As a matter of fact, the constitution of the aforementioned Committee is solely an administrative decision. Thus, in absence of any statutory provisions, the authority cannot be expected and / or commanded to operate in a specific manner. In other words, when the establishment of Committee is not underpinned by any statutory authority, in that circumstance, selection of members of the Committee cannot be susceptible to challenge under Article 226 of the establishment of India," the Court held.

The Court, by exercising powers under Article 226 of the Constitution of India, cannot direct the State authorities to select members in a certain manner, it noted.

"Any direction and / or order, in that regard, would be said to be unjustified and unwarranted interference in a purely administrative affairs of the State authorities, and thereby, this Court would not like to go in the area, which is absolutely within the domain of the State Government on its administrative side," the Court said.

Advocate Zamir Z Shaikh appeared for the petitioner.

Advocate General Kamal Trivedi along with attorneys GH Virk, Dharitri Pancholi and Vinay Vishen appeared for the State.