

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/WRIT PETITION (PIL) NO. 9 of 2024****SUO MOTU****Versus****STATE OF GUJARAT THROUGH THE SECRETARY HOME DEPARTMENT****Appearance:**

MS TRUSHA PATEL, SENIOR ADVOCATE WITH MR HEMANG M
 SHAH(5399) for the Applicant(s) No. 1
 LAW OFFICER BRANCH(420) for the Applicant(s) No. 1
 MR KAMAL TRIVEDI, ADVOCATE GENERAL WITH MR VINAY
 BAIRAGRA, ASST. GOVERNMENT PLEADER for Opponent(s) No. 1
 MR G H VIRK(7392) for the Opponent(s) No. 2

CORAM:HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL
and
HONOURABLE MR. JUSTICE ANIRUDDHA P. MAYEE

Date : 29/01/2024**ORAL ORDER****(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL)**

1. This Public Interest Litigation has been registered in view of the order dated 19.01.2024 passed by us on a news item in "Ahmedabad Mirror" and other leading newspapers published on 19.01.2024, of an unfortunate incident of drowning of twelve students and two teachers of a school in District Vadodara. Mr.Brijesh Trivedi, President, High Court Advocates Association had placed a newspaper report before the Court requesting the Court to take cognizance.

2. In view of the order dated 19.01.2024, affidavit of the Secretary, Home Department, Government of Gujarat dated 29.01.2024 has been placed before us by Shri Kamal Trivedi, learned Advocate General appearing on behalf of the State Government. It was placed before us that the Corporation namely Vadodara Municipal Corporation had executed an Agreement dated 21.07.2017 for development of Harni Mothnath Lake at Harni, Vadodara, on Public Private Partnership basis (PPP mode), wherein the unfortunate incident had occurred on 18.01.2024. The assertions in the affidavit have been made with regard to rescue and search operations conducted by the District Police Control Room, Vadodara, Chief Fire Officer and District Administration along with National Disaster Response Force. With their cumulative efforts, eleven children, two teachers and one helper could be rescued whereas twelve children and two teachers were declared dead due to drowning. It is stated that a First Information Report had been

lodged on 18.01.2024 at about 8:10 p.m. in Harni Police Station under Sections 304, 308, 337, 338 and 114 IPC, against the responsible officers of the contractor concerned with the management and maintenance of the boat service in the Harni lake. Statements of 185 persons have been recorded and out of total 18 accused, 8 persons have been arrested so far. The investigation is under process. The details of the arrested persons has been given in their affidavits. Later in the investigation, two more names have been added as accused in the aforesaid offence, wherefrom one accused namely Pareshbhai Ramanlal Shah has been already arrested. The offence, thus, is registered against total twenty accused persons out of which nine persons have been arrested. For the remaining accused persons, lookout notices have already been issued against eight accused persons, whereas process to get the details of passport of remaining two accused persons is underway.

3. The Central Government has declared payment of *ex-gratia* of Rs.2,00,000/- to each of the fourteen deceased persons (twelve children and two teachers) and Rs.50,000/- to each of the injured (two teachers) from the Prime Minister's Relief Fund. The State Government declared *ex-gratia* payment of Rs.4,00,000/- to each of the fourteen deceased persons (twelve children and two teachers) and Rs.50,000/- to each of the injured persons (two teachers) from the Chief Minister's Relief Fund. The State Government is also providing financial assistance to the guardians whose children have died, family members of all twelve children who have been given Rs.50,000/- each from the State scheme. An inquiry has been ordered by the Home Department and direction has been given to the District Magistrate, Vadodara to submit its report within ten days while direction has been given to all other concerned authorities to cooperate in the inquiry. A Special Investigating Team has been constituted by the Police Commissioner *vide* order

dated 19.01.2024, under the directions of the State Government to investigate the reasons for accident properly and meticulously. As a precautionary measure to ensure that no such unfortunate accident occurs in future, the State Government through Home Department issued a communication dated 18.01.2024 to all the District Magistrates, Municipal Commissioners, Police Commissioners, Regional Commissioners, Nagarpalika, District Development Officers, District Forest Conservators, Superintendent of Police, Chief Officers, CEO, Statue of Unity, Ektanagar, Narmada and Commissioners, Fisheries to keep a watch on boat riding and other activities being made in reservoirs/ponds/lakes. Directions have been issued to make the necessary verification on the immediate steps to be taken as mentioned therein and necessary protection in regard to the arrangement should be ascertained. Detailed reports on the issues mentioned therein are to be forwarded to the Home Department within fifteen days. The interim

inquiry report of the incident submitted by the District Magistrate dated 25.01.2024 has been placed on record to submit that the final report will be submitted soon by the District Magistrate, Vadodara.

4. It is, thus, submitted by the learned Advocate General that the State Government has taken a serious note of the matter and directed all concerned to ensure that necessary steps be taken with regard to the arrangements in the matter of boat riding and other activities in the water bodies across the State. The submission is that some more time is needed to bring the house in order.

5. Having gone through the affidavit filed on behalf of the State, we require Mr.G.H.Virk, learned advocate appearing for respondent No.2, Vadodara Municipal Corporation to file affidavit of the Municipal Commissioner, Vadodara Municipal Corporation to bring before us the entire record in

the matter of grant of contract in favour of M/s.Kotia Projects/contractor for development of Harni Motnath Lake at Harni, Vadodara on P.P.P. mode. The Municipal Commissioner, Vadodara Municipal Corporation is required to explain as to how and in what manner, boating activities were permitted in the lake at Harni, without adhering to the safety norms, minimum of which would be ensuring the wearing of life jackets by the boat riders and the number of children accommodated in one boat. From the affidavit filed on behalf of the State, it may be noted that number of boat riders including children accommodated in one boat in three rounds were approximately 23 and 30 whereas the boat was having fourteen seating capacity. The reason for the incident which occurred in the third round at about 4:30 p.m. on 18.01.2024 was on account of overcrowding of the boat and lack of adherence to the security norms.

6. The Municipal Commissioner, Vadodara Municipal

Corporation is required to bring before the Court as to how the contractor was permitted to carry out such activities and whether any supervision of the activities of the contractor in the development and management of the Harni lake was undertaken under the directions of the Municipal Commissioner. The report of the Officer/staff of the Corporation deputed for supervision, if any, shall be placed on record. The copy of the agreement entered with the contractor shall be placed on record along with the instructions issued by the Corporation, if any, in the matter of development and management of the Harni lake.

7. The inquiry into the incident pertaining to administrative and technical lapses is to be conducted by a competent officer, a District Magistrate, Vadodara as appointed by the State. The steps, if any, taken by the Corporation against the erring officials of the Corporation shall also be brought on record.

8. Besides that, as pointed out by Ms.Trusha Patel, learned Senior Advocate appearing for the High Court that the guidelines are to be formulated and circulated in order to avoid any such incident in future in the management of all existing water bodies for the use of public for amusement in the State of Gujarat. The guidelines/rules, if any, are to be brought on record. Liability is to be fixed on the contractor on completion of inquiry and recurring compensation is to be provided by the contractor to the family members of the deceased teachers. It is also to be inquired as to how the parents of the deceased children are to be compensated for the loss of life of their children on whom their lives would be dependent. The formula to provide just and fair compensation to the parents of deceased children in the light of Motor Vehicles Act, 1988 is to be formulated and liability is to be fastened on the contractor. Similarly, compensation for the dependents of deceased teachers (two in number), is to be

computed to fasten liability on the contractor.

9. On all the above issues raised before us, we post the matter on 21.02.2024, inviting replies from all concerned, namely the Secretary (Home), Department of Home, Government of Gujarat and the Municipal Commissioner, Vadodara Municipal Corporation.

10. Taking note of the letter dated 18.01.2024 issued by the Secretary, Home Department, Government of Gujarat, we propose to change the subject of this Public Interest Litigation to :-

“In Re : Management of the water bodies such as reservoirs/ponds/rivers/lakes in the State of Gujarat, on PPP mode or otherwise by the statutory bodies, specifically in the matter of boat riding and other amusement activities being made therein.”

(SUNITA AGARWAL, CJ)

(ANIRUDDHA P. MAYEE, J)

GAURAV J THAKER