

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/WRIT PETITION (PIL) NO. 9 of 2024**

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RE-MANAGEMENT OF THE WATER BODIES SUCH AS
RESERVOIRS/PONDS/RIVERS/LAKES IN THE STATE OF GUJARAT, &
ANR.

Versus

STATE OF GUJARAT THROUGH THE SECRETARY HOME DEPARTMENT
& ORS.

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Appearance:

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

MR HEMANG M SHAH(5399) for the Applicant(s) No. 1,2

MR KAMAL TRIVEDI, ADVOCATE GENERAL, WITH MR VINAY BERAGRA
AGP for the Opponent(s) No. 1

G H VIRK(7392) for the Opponent(s) No. 2

for the Opponent(s) No. 3

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

and

HONOURABLE MR. JUSTICE ANIRUDDHA P. MAYEE

Date : 15/04/2024

ORAL ORDER

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

1. When we perused the personal affidavit of the Municipal Commissioner, Vadodara Municipal Corporation [*“Corporation”* for short], we found that correct and complete facts in the matter of grant of contract in favour of M/s. Kotia Projects for development of Harni Lake on PPP (Public Private Partnership) Mode have not been brought on record. Several queries made by the Court during the course of arguments could not be answered by Mr. G.H.Virk, the learned counsel appearing for the

Corporation. We may note that the tender document contains a proposal for lake development and amenities to be provided by the contractor. Certain details of the revenue generation are also included in the tender document. The contract awarded in favour of M/s. Kotia Projects was for 30 years on PPP mode, on a nominal premium of Rs.3 Lakhs per annum. The concessional agreement/contract brought before us is sketchy in nature. It does not provide the details of the development work to be carried out by the contractor as per the decision of the Standing Committee dated 8.9.2016 for approval of the special project of Corporation, of renovation work of Harni Motnath Lake. A perusal of the tender document also indicates that the tender was floated for development of Harni Motnath Lake in the city of Vadodara on PPP basis. There is complete silence in the affidavit of the Municipal Commissioner about the development work, if any, conducted by the contractor since the date of award of the contract, any supervision work of development, if any, carried out. The affidavit speaks of action taken against the erring officer of the Corporation without even disclosing the error on the part of the contractor and the error on the part of the officials of the Corporation. The factual report dated 3.2.2024 of the Dy. Municipal Commissioner (Administration) is sketchy and cannot

be accepted. In any case, the entire affidavit of the Municipal Commissioner, Vadodara Municipal Corporation filed on 19.2.2024 does not give a clear and complete picture of the manner in which the contract was awarded in the year 2017 and further the supervision made by the Corporation's officials. It does not answer to the queries made by the Court in the order dated 29.1.2024 and therefore, cannot be accepted by us.

2. On the asking of the Court as to how incomplete information can be provided by the Municipal Commissioner of the Corporation, a prayer has been made by Mr. G.H.Virk, the learned counsel appearing for the Corporation to provide further time to bring correct and complete facts answering all queries of the Court on record.

3. For the aforesaid, we post the matter on 25.4.2024. We further provide that the entire original record pertaining to grant of contract to the concerned contractor shall be placed before the Court on the next date fixed along with the inspection/supervision work, if any, carried out at the hands for the Corporation during the subsistence of the contract.

4. A specific response to the assertions made in para '2.1' to

‘2.4’ of the memo of the instant petition is to be given by the Municipal Commissioner in his affidavit as also to answer the contention that the contractor had sublet the contract, contrary to the condition of Clause-21 of the tender document.

(SUNITA AGARWAL, CJ)

KAUSHIK D. CHAUHAN

(ANIRUDDHA P. MAYEE, J.)