

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/WRIT PETITION (PIL) (WRIT PETITION (PIL)) NO. 6 of 2023

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AMIT MANIBHAI PANCHAL
Versus
STATE OF GUJARAT & ORS.

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Appearance:

MR AMIT PANCHAL with MR ANGESH A PANCHAL, PARTY IN
PERSON(5000) for the Applicant(s) No. 1
MR KAMAL TRIVEDI, ADVOCATE GENERAL with MR VINAY BAIRAGRA,
ASST. GOVT. PLEADER Pfor the Opponent(s) No. 1,3,4
MR HS MUNSHAW(495) for the Opponent(s) No. 5
MS MANISHA LAVKUMAR, SR.ADV. with Mr.Siddharth Rami for Opponent
No.8,9.
MR RC KAKKAD, for Opponent No.6

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CORAM: **HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE**
SUNITA AGARWAL
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 03/09/2024

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

1. By means of the draft amendment, the petitioner herein seeks to add the following respondents in the array of parties as respondents No.6 to 11, in order to raise the issue about the plastic pollution being caused on the island of Bet Dwarka.
2. We may note that the present petition in the nature of PIL has been filed to raise the issue pertaining to the pollution caused by plastic use in Girnar Eco-Sensitive Zone, which has been curbed to some extent with the intervention of this Court in the present PIL.
3. The assertion in the draft amendment is that the plastic

pollution, rampant in the island of Bet Dwarka, is causing great harm to the environment in the area, as the plastic waste and garbage which enters into the sea is causing damage to the Marine life. Reference has been made to the rules framed by the Ministry of Environment, Forest and Climate Change, namely the Plastic Waste Management Rules, 2016 (in short as 'the Rules' 2016') .

4. The proposed respondents which are being impleaded herein, according to the petitioner, are responsible under the Rules' 2016 for the management of the plastic waste.
5. There is no objection to the draft amendment filed by the petitioner. The draft amendment is hereby allowed. The respondents No.6 to 11 are impleaded as respondents in the present petition.
6. Mr. R.C. Kakkad, learned advocate appearing for the Okha Nagarpalika is permitted to file Vakalatnama in the Registry. Ms. Manisha Lavkumar, learned Senior Advocate assisted by Mr. Siddharth Rami, learned advocate has put in appearance on behalf of the Gujarat Pollution Control Board. Mr. Kamal Trivedi, learned Advocate General assisted by Mr Vinay Bairagra, learned Assistant Government Pleader appears for the State respondents.
7. Further, in compliance of the order dated 20.08.2024, the affidavit of the Joint Secretary, Forest and Environment Department, Government of Gujarat has been filed. It is stated therein that the Committee has been constituted under the Chairmanship of the Principal Secretary, Forest and Environment Department, for taking decision in relation to the preparation of the Zonal Master Plan for

different forests/ Eco-Sensitive Zones in the State of Gujarat. The Zonal Master Plan prepared in relation to the Girnar Eco-Sensitive Zone was submitted before the Committee on 17.08.2024 and upon deliberations, the Committee found that the micro plans presented for each village lacked on-site surveys and needed to be re-visited. It was noted that the data and details presented before the Committee were sources from the internet and some documentary material rather than being collected locally. It was, therefore, resolved that the Zonal Master Plan for Girnar Sanctuary should be prepared only after conducting local surveys, sketching micro plan for individual village, keeping all the information and its validity into consideration at present. The Committee suggested Geer foundation to revisit the site and draw the Zonal Master Plan for Girnar Sanctuary, Eco-Sensitive Zone from scratch and make presentation to the Committee for obtaining the approval. For the completion of the process of local survey etc., it is submitted by the learned Advocate General appearing for the State respondents that at least three months time would be required.

8. We, therefore, provide that the Principal Secretary, Forest and Environment Department shall ensure that the Zonal Master Plan is prepared in consonance with the recommendations of the Committee in its meeting constituted for finalizing the Zonal Master Plan, as early as possible preferably within the period of three months from today.
9. As regards the directions contained in the order dated 20.08.2024, requiring the Municipal Commissioner,

Junagadh Municipal Corporation in the matter of recycling of plastic waste collected from the Eco-Sensitive Zone and the city of Junagadh, in spite of sufficient time granted by us twice to the Municipal Commissioner, Junagadh, who happens to be an IAS officer, we fail to understand as to how his response has been brought before us by means of an affidavit which is sworn by the Municipal Commissioner on 01.09.2024.

10. Pertinent is to note that by the order dated 10.07.2024, we have directed the Municipal Commissioner, Junagadh to bring the record or the entire material showing the mode and manner in which the plastic waste collected from the Junagadh Eco-Sensitive Zone and the city of Junagadh is being recycled. In response to the same, only this much is brought before us that the work of segregation and plastic waste disposal on pilot basis has been allocated by the Standing Committee of the Corporation vide its resolution dated 05.03.2021 to an Outsourcing agency. It was resolved that the Corporation would provide a place with a shed and other basic facilities against the payment of appropriate charges from the agency, who would provide the services of manual segregation at material recovery facility without any cost from the waste collected from the city of Junagadh and dumped at Hajiyani Baug Transit Point. It is further stated in the affidavit that the work order dated 16.07.2021 came to be issued by the Corporation to the Agency entrusting for transportation of the total waste from the Hajiyani Baug Transit Point to material recovery facility and undertaking the work of plastic waste disposal without any cost by manual segregation of solid waste with the help of rag pickers and thereby disposing of the plastic waste in

accordance with the guidelines issued by the Central Government from time to time. There is a further reference of extensions/renewals granted by the Corporation to the Outsourcing agency. However, there is no response to our precise query as to how the plastic waste disposal is being carried out by the agency hired by the Corporation and whether the exercise conforms to the guidelines issued by the Gujarat Pollution Control Board (in short as 'the GPCB') and the Central Government as indicated in the first work order issued on 16.07.2021.

11. It is further stated that a team of the Corporation has physically inspected two units on 08.07.2024 and 14.08.2024 and it was found that the steps have been taken for sorting of plastic waste, heating and making lumps and by cooling and selling lumps thereafter.

After stating the same, however there is no report of the Municipal Commissioner as to whether the team has found that the manner in which the plastic waste is being handled by the two agencies conforms to the requirement of the guidelines issued by the GPCB and the Central Government. The result is that the Municipal Commissioner, Junagadh Municipal Corporation, without application of his own independent mind, has simply placed the facts and figures before us leaving us to guess whether the plastic waste is being handled by the agencies hired by the Junagadh Municipal Corporation in accordance with the guidelines.

12. We take strong exception to the manner in which an officer

of an IAS cadre has given his response to the Court. This response of the Municipal Commissioner, Junagadh Municipal Corporation not only reflects apathy of the officer concerned but disrespect to the Court. The Municipal Commissioner, in not forming any opinion on the report of the team and simply forwarding it to the Court by means of his affidavit has violated the directions contained in the order dated 10.07.2024 as reiterated by us in the order dated 20.08.2024. No inquiry whatsoever has been conducted by the Municipal Commissioner, Junagadh Municipal Corporation to even satisfy himself about the manner in which the plastic waste is being handled by two agencies hired by the Corporation.

13. We may note that the Rule 6 of Rules' 2016 casts responsibility on the local bodies for development and setting up infrastructure for segregation, collection, processing and disposal of the plastic waste either on its own or by engaging agencies or producers. Sub-rule (2) of Rule 6 further makes the local body responsible for setting up operationalization and coordination of the waste management system and for performing of the associated functions prescribed therein, which not only calls for the engagement of outsourcing agency, rather taking all such steps to ensure that no damage is caused to the environment during the process. The Clause (g) contained in sub-rule (2) of Rule 6 further casts the responsibility upon the local body to ensure that open burning of plastic waste does not take place. Sub-rule (3) of Rule 6 further requires that the local body for setting up system for plastic waste management shall seek assistance of producers and such system shall be set up within one year from the date of

final publication of the Rules' 2016.

14. Rule 12 further provides that the State Pollution Control Board shall be the authority for enforcement of the provisions of the Rules' 2016 relating to processing and disposal of plastic wastes. Sub-rule (3) of Rule 13 further provides that every person re-cycling or processing waste or proposing to recycle or process plastic waste shall make an application to the State Pollution Control Board or the Pollution Control Committee for grant of registration or renewal of registration for re-cycling unit in the prescribed Form II. Sub-rule(5) further provides that the manner in which the registration would be granted by the State Pollution Control Board.
15. Taking note of the above, as proper response is not forthcoming from the Municipal Commissioner, Junagadh Municipal Corporation, we require the GPCB to make an inspection and submit its comprehensive report.
16. The GPCB shall visit both the facilities within the period of 24 hours and submit their report about the manner in which the two sites are being operated by the agencies hired by the Junagadh Municipal Corporation in GIDC-I, Junagadh. The report of the GPCB shall be placed before the Court along with the affidavit of the Regional Manager, GPCB on the next date fixed.
17. We may further note that Rule' 2016 requires for constitution of a State Level Monitoring Committee by the State Government for the purpose of effective monitoring of implementation of the Rules. As per Rule 17 Annual report is to be submitted in the Form IV to the local body by any

person engaged in recycling of processing of plastic waste to the local body concerned under the intimation to the State Pollution Control Board by 30th April of every year as per Rule 17. The local body is further required to prepare and submit annual report in Form V to the concerned Secretary in charge of the Urban Development Department under intimation to the concerned State Pollution Control Board by 30th June of every year. The State Pollution Control Board is then required to prepare and submit the annual report in Form VI to Central Pollution Control Board (in short as 'CPCB') who shall have to prepare a consolidated annual report on the use and management of the plastic waste and forward it to the Central Government along with its recommendations before 31st August of every year.

18. Taking note of the above, we further require the Municipal Commissioner, Junagadh Municipal Corporation, to place on record the annual report in Form IV, if any, submitted by the person engaged by the Corporation in recycling or processing of plastic waste by the year ending on 30th April, 2024.
19. The annual report of the local body (Junagadh Municipal Corporation) in Form V as required under Rule 17(2) to be submitted to the State Pollution Control Board by 30th June, 2024, shall also be placed on record.
20. The State Pollution Control Board, namely the GPCB is also required to submit a response before us on the annual report, if any, submitted by the local body, i.e. Junagadh Municipal Corporation in accordance with the Rule 17(2)

and Rule 17(3) of the Rules' 2016 along with the affidavit of the Regional Manager.

21. As regards the issue of slackness on the part of the Okha Nagarpalika in managing the plastic waste in and around the pilgrimage known as 'Bet Dwarika', learned advocate appearing for the Okha Nagarpalika is required to file its response to the draft amendment allowed by us today.
22. For getting the response of the respondents such as the Okha Nagarpalika, Municipal Commissioner, Junagadh Municipal Corporation and the GPCB, we post the matter on 17.09.2024.

(SUNITA AGARWAL, CJ)

(PRANAV TRIVEDI,J)

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