

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 M. PANCHAL as PARTY IN PERSON(5000) with MR
 ANGESH A. PANCHAL for the Applicant(s) No. 1
 MS DEVANGI SOLANKI, AMICUS CURIAE
 MR KAMAL B. TRIVEDI, ADVOCATE GENERAL assisted with MR
 VINAY BAIRAGRA, AGP for the Opponent(s) No. 1-4
 MR MITESH AMIN, SR. ADVOCATE with MR HS MUNSHAW(495)
 for the Opponent(s) No. 5
 SIDDHANT R SHAH(8722) for the Opponent(s) No. 6
 MS MANISHA LAVKUMAR SHAH, SR. ADVOCATE with MR.
 SIDDHARTH S. RAMI (8342) for the Opponent(s) No. 8,9

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

Date : 17/09/2024

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

1. In response to the order dated 03.09.2024 passed by us requiring the Gujarat Pollution Control Board (GPCB) to make an inspection of the facilities created and hired by Junagadh Municipal Corporation in the matter of plastic waste disposal, affidavit of compliance has been filed by the Regional Officer, Gujarat Pollution Control Board, Regional Office, Junagadh wherein the inspection report dated 03.09.2024 has been brought on record.

2. The crux of the affidavit is that three member team comprising of Regional Officer, Scientific Officer and Senior Assistant, Gujarat Pollution Control Board, Junagadh conducted onsite inspection of three sites on 03.09.2024 and 04.09.2024 in the presence of the Supervisor, Junagadh Municipal Corporation and the owners of the two sites. They are :-

- i. Transit cum Material Recovery Facility (MRF) of Junagadh Municipal Corporation, Hajiyan Baag.
- ii. M/s. Sabar Scrap, GIDC-2, Junagadh.
- iii. M/s. Shree Hari Plastic, GIDC-2, Junagadh.

3. It was noted that the first Material Recovery Facility (MRF) of the Junagadh Municipal Corporation, Hajiyan Baag, is a temporary storage of municipal solid waste collected from the wards of the Junagadh Municipal Corporation. The Material Recovery Facility owned by the Junagadh Municipal Corporation and managed by M/s. Zero Waste Solution (hired by the Corporation) does not have Consent-to-Establish (CTE) or Consolidated Consent and Authorisation (CCA) under the Plastic Waste Management Rules, 2016, which is mandatory in view of Rule 12, which casts responsibility upon the Central Pollution Control Board (CPCB), State Pollution Control Board and Pollution Control Committee terming them as prescribed authority for enforcement of the provisions of the Rules. It is stated that at the MRF, plastic waste is segregated by the rag pickers managed

by M/s. Zero Waste Solution. A show-cause notice dated 11.09.2024 has been issued to MRF facility, Junagadh Municipal Corporation.

4. In a similar fashion, another site viz. M/s. Sabar Scrap, GIDC-2, Junagadh, run by the unit engaged in the manual segregation and shredding/chipping of plastic scrap by the Corporation, no document/book/diary were available at the site for verification of sales/purchase data, inasmuch as, the owner of the said site informed that he sells off shredded/chipped plastic to other traders/recyclers as per the product grade. Further, the site does not have Consent-to-Establish (CTE) or Consolidated Consent and Authorisation (CCA) under the Plastic Waste Management Rules, 2016. A show-cause notice dated 10.09.2024 has, thus, been issued to the unit by the GPCB calling upon it to show cause as to why legal action may not be initiated against it under the provisions of the Act, which may include suspension/closure of the unit.
5. With respect to the third facility, viz. Shree Hari Plastic, GIDC-2, Junagadh, during inspection, packaging of plastic lumps for storage was ongoing and the unit was engaged in production of plastic lumps from different kinds of plastic waste. The plastic lumps were stored in the premises, however, no document/book/diary were available at the site for verification of sales/purchase data. Moreover, the site does not have Consent-to-Establish (CTE) or Consolidated Consent and

Authorisation (CCA) or registration under the Plastic Waste Management Rules, 2016. The GPCB has, therefore, issued show-cause notice dated 10.09.2024 calling upon the unit to respond as to why legal action may not be initiated against it under the provisions of the Act, which may include suspension/closure of the unit.

6. It is, thus, submitted in the affidavit of the Regional Officer, GPCB, Regional Office, Junagadh that recoverable plastic material from municipal solid waste collected from municipal area of Junagadh is stored at the MRF, Hajiyan Baag managed by M/s. Zero Waste Solution and the same is segregated manually by the rag pickers. Whereas the two other units, viz. M/s. Sabar Scrap and M/s. Shree Hari Plastic are involved in the activity of processing of plastic waste supplied M/s. Zero Waste Solution and other suppliers. However, none of the three units were having any permission from the GPCB nor any documentary evidence was found to substantiate the details of the quantity of the waste processed by them, which has resulted into issuance of show-cause notice to all.
7. As regards the annual report under the Plastic Waste Management Rules, 2016, it is sought to be submitted that the Junagadh Municipal Corporation has submitted annual report in Form-IV and Form-V for the year 2021-22 and 2022-23 on 11.10.2022 and 11.12.2023; respectively. For the current year, the annual report in

the prescribed format was submitted by the Corporation on 18.06.2024. The said report includes details such as estimated quantity of waste generated and collected, details of facilities used for processing and disposal of plastic waste, manpower deployed for collection of waste of local body, tools used for collection, etc. and the copies of the said annual report has been appended collectively as Annexure 'R5'.

8. The summary of the action plan stated in the said reports by the Junagadh Municipal Corporation has also been detailed in the affidavit of the Regional Officer, GPCB. However, astonishing fact reflected from the inspection reports and the statement made by the Regional Officer, GPCB about the details given in the annual report submitted by Junagadh Municipal Corporation that both the authorities, viz. Junagadh Municipal Corporation and the Regional Officer, GPCB are in utter defiance of Rules 6, 12 and 13 of the Plastic Waste Management Rules, 2016. The responsibility of the local body fixed by Rule 6 for setting up of infrastructure for segregation, collection, storage, transportation, processing and disposal of the plastic waste either on its own or by engaging agencies has not been discharged in a proper manner. The manner in which three facilities have been created/hired/engaged by the Junagadh Municipal Corporation, it is evident that the Municipal Commissioner of the Corporation is oblivious of his responsibility being the head of the Junagadh Municipal Corporation under the Plastic Waste

Management Rules, 2016.

9. In the order dated 03.09.2024, we have expressed our strong exception to the manner in which the response was given by the Municipal Commissioner, Junagadh Municipal Corporation to our order dated 20.08.2024. To our order dated 03.09.2024 requiring 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 as per the provisions of the Plastic Waste Management Rules, 2016, there is no response today. There is no response to our query about the annual report of the local body in Form-IV as required under Rule 17(2) of the Rules' 2016, to be submitted to the State Pollution Control Board.
10. It is evident that three facilities created by the Junagadh Municipal Corporation either on its own and by engagement of private operators, the provisions of the Plastic Waste Management Rules, 2016 has been utterly violated.
11. Mr. Mitesh Amin, learned Senior counsel appearing for the Junagadh Municipal Corporation seeks further time to file response to our order dated 03.09.2024.
12. For the startling facts which have come on record in the inspection report of the GPCB, it is evident that the Municipal Commissioner, Junagadh Municipal Corporation was oblivious of the requirement of the

Plastic Waste Management Rules, 2016, when establishing Material Recovery Facility (MRF) without any approval/permission of the GPCB and engaging private operators who do not have requisite permission of the GPCB.

13. We, therefore, call upon the Municipal Commissioner, Junagadh Municipal Corporation to explain the non-compliance of the Plastic Waste Management Rules, 2016. We also require the Municipal Commissioner, Junagadh Municipal Corporation to place on record the entire material for establishment of Material Recovery Facility (MRF) by the Junagadh Municipal Corporation and the contract granted to the two private facilities for processing of the plastic waste. The contract papers for engagement of M/s. Zero Waste Solution for managing MRF facility owned by the Junagadh Municipal Corporation shall be brought on record. All other documentary material of the process of engagement of three private players for management of plastic waste collected by the Junagadh Municipal Corporation, viz. M/s. Zero Waste Solution, M/s. Sabar Scrap, GIDC-2, Junagadh and M/s. Shree Hari Plastic, GIDC-2, Junagadh shall also be brought on record. The entire original record pertaining to the grant of contract shall be placed before us. The annual reports submitted by the contractor and the Corporation as per the requirement of Rule 17 in Form-IV and Form-V shall also be brought on record along with the affidavit of the Municipal Commissioner.

14. Another astonishing feature of the matter reflected from the affidavit of the Regional Officer, GPCB is that the annual reports in Form-IV and Form-V for the year 2021-22, 2022-23 and the current year, i.e. 2023-24 submitted to the GPCB reflected the details as noted hereinbefore in the matter of collection, processing and disposal of plastic waste, but it seems that the GPCB has simply forwarded the said report along with its report to the Central Pollution Control Board. None of the authorities, viz. GPCB or CPCB were alerted from the details given in the annual report submitted by the Corporation that the processing and disposal of plastic waste collected by the Corporation is being done in utter violation of the Plastic Waste Management Rules, 2016.
15. From the statement of the Regional Officer, GPCB, Regional Office, Junagadh in the affidavit dated 17.09.2024, it is more than evident that the submission of the annual report and forwarding of the same to the GPCB remains only a paper transaction and is a mere eyewash insofar as the requirement of the Rules' 2016. As per our understanding, for the purpose of submission of annual report by a person engaged in recycling or processing of plastic waste and the local body is to ensure enforcement of the provisions of the Rules, 2016, which is the responsibility of the GPCB and CPCB being the prescribed authority under Rule 12.
16. The GPCB has, thus, utterly failed in discharging its responsibility fixed under the Plastic Waste Management

Rules, 2016 and has failed from all angles in all respect in enforcement of the rules. The GPCB was alerted only after the directions were issued by us to make inspection in the order dated 03.09.2024. However, at this juncture, Ms. Manisha Lavkumar, learned Senior counsel appearing for the GPCB would submit that the GPCB would take remedial measures immediately and call for the information of all such sites Pan-State, make inspection, issue show-cause notice and impose penalty, if violations are reported so as to ensure that the plastic waste management in the entire State is made strictly in accordance with the provisions of the Plastic Waste Management Rules, 2016. It is submitted that the Material Recovery Facility managed by the Junagadh Municipal Corporation has submitted an application seeking consent to establish, which would be processed very soon.

17. We, therefore, direct the GPCB to call for the information of all sites from each of the local body as defined under Rule 3(w) of the Rules, 2016, which include municipal corporation, municipality, nagarpalika, nagarpanchayat, municipal council including notified area committee and the relevant gram panchayat where the management of plastic waste is entrusted to private agency or facility is created by the local body on its own. After scrutiny of the information received by the GPCB, inspection be carried out of all such sites in a phased manner and if any of such site is found being run in violation of the Plastic Waste Management Rules, 2016,

appropriate measures be taken by issuing show-cause notice and imposition of penalty after giving opportunity of hearing to the person concerned. All pending applications pertaining to such sites seeking Consent-to-Establish (CTE) or Consolidated Consent and Authorisation (CCA) shall be processed in a time bound manner.

18. Before parting with this order, we may reiterate our observations made in paragraphs '16' and '17' of the order dated 03.09.2024 with regard to constitution of a State Level Monitoring Committee by the State Government for effective implementation of the Plastic Waste Management Rules, 2016 under Rule 16. The response of the learned Advocate General appearing for the State Government is needed in the matter of establishment of the Committee. The affidavit of the Additional Chief Secretary of the State shall be filed on the next date fixed.

Matter be posted on 01.10.2024 at 12.30 P.M.

(SUNITA AGARWAL, CJ)

(PRANAV TRIVEDI,J)

BIJOY B. PILLAI