

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, LD. ADVOCATE AS PARTY IN
PERSON(5000) with MR ANGESH A. PANCHAL for the
Applicant(s) No. 1

MS. DEVANGI B. SOLANKI, LD. AMICUS CURIAE

MR. KAMAL TRIVEDI, LD. ADVOCATE GENERAL with MR. VINAY
BAIRAGRA, ASST. GOVERNMENT PLEADER for the Opponent(s)
No. 1,2,3,4

MR HS MUNSHAW(495) for the Opponent(s) No. 5

SIDDHANT R SHAH(8722) for the Opponent(s) No. 6

MS. MANISHA LAVKUMAR SHAH, LD. SENIOR COUNSEL with
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 : 01/10/2024

ORAL ORDER

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

(1) The issue cropped up in this Public Interest Litigation initially filed with the aim to protect Girnar Eco-Sensitive Zone is about the plastic pollution in Girnar Eco-Sensitive Zone and island of Bet - Dwarka. While dealing with the amended application permitting

the petitioner to raise the issue of the plastic waste and garbage lying scattered in the island of Bet - Dwarka, causing damage to Marine lives, by the order dated 03.09.2024, we required the Chief Officer, Okha Nagarpalika, Municipal Commissioner, Junagadh Municipal Corporation and Gujarat Pollution Control Board (GPCB), simultaneously to file their responses about the compliance of the Plastic Waste Management Rules' 2016 (for short, "the Rules' 2016").

(2) We also required GPCB to make an inspection of the facilities created and hired by Junagadh Municipal Corporation considering the response of the Municipal Commissioner, Junagadh Municipal Corporation filed in compliance of our previous order dated 20.08.2024.

(3) On a perusal of the Inspection Report brought on record in the order dated 17.09.2024, it was noted by us that the inspection team found two facilities hired by Junagadh Municipal Corporation namely M/s Sabar Scrap, GIDC - 2, Junagadh and M/S Shree Hari Plastic, GIDC - 2, Junagadh non-compliant for being run without Consent - to - Establish (CTE) and Consolidated Consent and Authorization (CCA), as required for management of plastic waste / recycling under the Rules' 2016. It was also noted by the inspection team of GPCB that hired facilities were not keeping any record for the work being conducted by it.

(4) The Court has noted in the order dated 17.09.2024 the slackness on the part of the GPCB, this prescribed authority under Rule 12 of the Rules' 2016 about its role and responsibilities. It was noted that both the Junagadh Municipal Corporation and the Regional Officer, GPCB are in utter defiance of Rules 6, 12 and 13 of the Rules' 2016 and none of them have discharged their responsibilities to ensure the compliance of the Rules.

(5) We also required the Municipal Commissioner, Junagadh Municipal Corporation to place on record the entire material for establishments of Material Recovery Facilities (MRF) by the Junagadh Municipal Corporation and the contract granted to two private facilities for processing of the plastic waste, including M/s Zero Waste Solution for managing MRF Facilities owned by Junagadh Municipal Corporation. We required the contract papers of all facilities hired by Junagadh Municipal Corporation.

(6) Looking to the fact that the State Monitoring Committee is required to be constituted by the State Government under Rule 16 of the Rules' 2016, for the purpose of effective monitoring of implementation of the rules, we granted time to the learned Advocate General appearing for the State to bring the response of the State Government in the matter of establishment of the

Committee.

(7) Simultaneously, we required GPCB to call for the information from all sites from each of the local bodies in the State, as defined under Rule 3 (w) of the Rules' 2016 about the steps taken by them in the management of plastic waste and after scrutiny of the information received, to carry out inspection and submit report about violations, if any, and the measures taken by the GPCB.

(8) In the affidavit filed on behalf of the GPCB by the officers serving as Unit Head, Plastic Waste Cell, GPCB Head Office, Gandhinagar, it is stated that in compliance of the directions issued by this Court, GPCB has sought information from all local bodies by addressing communications to eight (8) Municipal Corporations, 156 Nagarpalikas, Swachhh Bharat Mission (Urban) and Additional Rural Development Commissioner to collect details from 14,000 Gram Panchayats across the State as well. Directions have been issued to the local bodies to ensure 100% plastic waste collections, segregation, transportation, processing and disposal of plastic waste in their region; channelization of plastic waste fractions by engaging only those registered plastic waste processors having CTE, CCA and registration on the EPR Web Portal developed by Central

Pollution Control Board (CPCB) and submit corrected Annual Report for the year 2023 - 24 within the period of seven days from the date of issuance of the communications dated 27.09.2024.

(9) It is contended that the detailed scrutiny of all the Annual Reports submitted with the GPCB is under process. On completion of the scrutiny, GPCB will take further remedial measures and carry out inspection, issue showcause notices and impose penalties wherever required.

(10) It is further submitted through a Diagram placed before us that the information received by the GPCB from local bodies, so far is about the Solid Waste Landfill Site and Material Recovery Facilities, but after segregation as to how the plastic waste is being managed, is missing. The GPCB is trying to collect the information from the local bodies about the facilities hired or created by them for the purpose of management and disposal of plastic waste after segregation at the Material Recovery Facility established by the Corporation.

(11) During the course of arguments, it is submitted by Ms. Manisha Lavkumar Shah, learned Senior Counsel appearing for the GPCB that there are 425 registered Plastic recycling units in the entire State of Gujarat,

which confirm to the requirement of the CTE, CCA and registration on the EPR Web Portal developed by Central Pollution Control Board (CPCB). The information with regard to these facilities has been shared with all the local bodies to meet the requirement of the Rules' 2016.

(12) As regards the Transit - cum - Material Recovery Facilities of Junagadh Municipal Corporation at Hajiyan Baug, it is submitted by GPCB that the Junagadh Municipal Corporation has applied for CTE on 19.09.2024 and the GPCB has expeditiously processed the application and granted CTE on 27.09.2024. Subsequently, the Corporation had also applied for CCA on 27.09.2024, which will be processed after verification of trial run of processing unit. The site is operated by M/s Zero Waste Solution and the agency is engaged by the Corporation for segregation at its MRF Facilities.

(13) It is also stated in the affidavit filed on behalf of the GPCB that two non-compliant plastic waste processing facilities engaged by Junagadh Municipal Corporation, noted hereinabove, have been discontinued as the Corporation had intimated to GPCB that they have cancelled the MOU entered with them. However, the Junagadh Municipal Corporation, has now entered in an MOU with M/s Sailani Ecopet Pvt. Ltd. for processing of plastic waste, to whom Consent-to-Establish (CTE) was granted only on 27.08.2024 and the said company has

applied for Consolidated Consent and Authorization (CCA) on 13.09.2024, which is under scrutiny.

(14) From the response given by the GPCB, atleast, it is clear that the Junagadh Municipal Corporation had again engaged a facility, which does not have CCA from the GPCB, nor it is a registered facility in the list of 425 compliant facilities stated by the GPCB. In what mode and manner, the new facility has been engaged by Junagadh Municipal Corporation would require response of the Municipal Commissioner, Junagadh Municipal Corporation.

(15) On the request made by Mr. H. S. Munshaw, learned advocate for the Junagadh Municipal Corporation, time is granted to file personal affidavit of the Municipal Commissioner, Junagadh Municipal Corporation in compliance of the directions contained in the order dated 17.09.2024 as also to the queries made hereinabove, including about the mode and manner of engagement of private facilities for disposal of plastic waste collected from the jurisdictional area of the Junagadh Municipal Corporation.

(16) About the response of the GPCB, it is directed to complete the process of inquiry and inspection, as directed by this Court in the order dated 17.09.2024 and submit its report an affidavit of the competent officer of

the GPCB.

(17) Coming to the role of the State Monitoring Committee, we may first note from the response received by the Court in the affidavit dated 30.09.2024 filed by the Principal Secretary, Urban Development and Urban Housing Department, Gujarat, that in compliance of the Rule 16 of the Rules' 2016, vide resolution dated 02.12.2016, the State Government has duly constituted the State level Monitoring Committee. In the last meeting of the said Committee convened on 25.09.2024, after discussion, necessary instructions have been given to all the concerned authorities to ensure implementation of the Rules.

(18) The current constitution of the State level Monitoring Committee is discerned from the minutes of the meeting held on 25.09.2024. The meeting was convened in the chairmanship of the Principal Chief Secretary, Urban Development and Urban Housing Department and the members included Commissioner, Municipality Administration, Gandhinagar, Director, Forest and Environment Department, Gandhinagar, Member Secretary, Gujarat Pollution Control Board, Gandhinagar, Principal Commissioner, Commerce and Tax (Administration), Ahmedabad and the Secretary, Urban Development and Urban Housing Department,

Mission Director, Swachchh Bharat Mission, Deputy Mission Director, Swachchh Bharat Mission, Deputy Commissioner (Project), Office of the Commissioner of Municipalities Administration and President, Plastic Association, Ahmedabad.

(19) Noticing the above, we may further record that the State Monitoring Committee has been entrusted with the task of effective monitoring of implementation of Plastic Waste Management Rules' 2016. However, the material brought before us indicate that there is a lot to do at the ends of the Monitoring Committee. Mere issuance of directions in the communication sent pursuant to the meeting dated 25.09.2024 will not suffice. The manner in which the Junagadh Municipal Corporation has handled the plastic waste from the jurisdictional area of Girnar Eco-sensitive Zone shows that there is complete apathy about the compliance of Rules' 2016.

(20) From the response of the GPCB filed with the affidavit noted hereinabove, we have a serious apprehension about the mode and manner in which the plastic waste is being managed by the local bodies in the area of their territorial jurisdiction.

(21) We, therefore, require the Monitoring Committee to seek response of all the heads of local bodies, collate the data, coordinate with GPCB and take

necessary steps to ensure effective monitoring of implementation of the Rules' 2016.

(22) We are of the view that in order to achieve the target, the Monitoring Committee has to conduct in meetings frequently with the Commissioner, Municipalities Administration, Municipal Commissioner of the cities, Chief Executive Officer of the District level Panchayat, namely the head of various local bodies.

(23) From the constitution of the State level Monitoring Committee provided under Section 16, we may note that there are two important officers, who are responsible for the task assigned by us. One is the Principal Secretary or the Secretary (in-charge) of the Municipalities Administration and another is the Principal Secretary or the Secretary (in-charge) of administration of Panchayati Raj institutions. Both the Secretaries are required to engage themselves with the head of the local bodies defined under Section 2 (w) within their administrative control, seek their responses, place the same in the meeting of the Monitoring Committee and take effective measures to remedy the situation. The Compliance Report of the directions contained in this order shall be filed by the Principal Secretary responsible for Municipalities Administration and the Principal Secretary or the Secretary (in-charge) of the Administration of Panchayati Raj Institution, separately,

for the local bodies under their control and supervision.

(24) Before parting with this order, we direct the learned advocate appearing for the Junagadh Municipal Corporation to produce the entire original record pertaining to engagement of the facilities for plastic waste management engaged in the past and currently as well.

List the matter on ***25.10.2024***.

(SUNITA AGARWAL, CJ)

(PRANAV TRIVEDI,J)

SAHIL S. RANGER