

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. PACHAL 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. 1,3,4

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 : 25/10/2024

ORAL ORDER

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

(1) We have perused the affidavit dated 23.10.2024 of the Chief officer of Okha Nagarpalika, wherein it is stated that Okha Nagarpalika has entered into an agreement on 07.10.2024 with an agency namely Sampurn Earth Environment Solutions Private Ltd. Having a plastic waste disposal plant at Mithapur, which is 3-4 kms away from Okha.

The copy of the agreement dated 07.10.2024 has been appended with the affidavit with the further statement that the said agency is having consent to establish for disposal of plastic waste.

(2) On a query made by the Court, as to why the consent to establish i.e. CCE, allegedly possessed by the aforesaid agency has not been appended with the affidavit, Mr Siddhanth Shah, learned advocate appearing for the Okha Nagarpalika would submit that inspite of the best efforts, the copy of the said document has not been provided to the Nagarpalika. And therefore, the said document could not be brought on record. From the said statement made by the learned advocate for Okha Nagarpalika, it can be discerned that the statement made in paragraph '2' of the affidavit of the Chief Officer, Okha Nagarpalika is misleading, inasmuch as, if the officer himself has not received the copy of the document containing the consent to establish for disposal of plastic waste issued from the GPCB, no such statement can be made before this Court.

(3) It is further pointed out by the learned Amicus from the copy of the agreement signed by the Chief Officer, Okha Nagarpalika with the aforesaid agency that the said agreement is sketchy in nature and further, it contains a clause as Clause '9', which is offending, in the sense that complete authority / power has been given to the agency engaged by the Chief Officer, Okha Nagarpalika to vary with the terms and conditions of the agreement. Further, no responsibility of liability of the agency engaged by the Chief

Officer has been put forth in the agreement. This agreement cannot be said to be valid agreement so as to grant contract by a public body to a private agency.

(4) We, therefore, call upon the officer namely Kirankumar Purshottam Shukla, posted as Chief Officer, Okha Nagarpalika, who has sworn the affidavit dated 23.10.2024 to explain as to why his action in filing such an affidavit and entering into the contract in a sketchy manner with the agency engaged by him, be not treated as non-compliance of the directions issued by this Court in the order dated 01.10.2024. The said explanation shall be submitted before this Court on the next date fixed i.e. **06.12.2024**.

(5) The personal affidavit of Junagadh Municipal Corporation dated 23.10.2024 has been filed to bring before the Court, the steps taken by the Officer to streamline the process of disposal of plastic waste. It is pointed out that the Material Recovery Facility managed by the Corporation through Zero Waste Solution is having both CCA and CTE from the GPCB, which have been granted in the month of September and October' 2024. An enlisted agency, which is having the CTE and CCA from the GPCB and is enlisted having registration certificate from the GPCB for dealing with the plastic waste has now been engaged by the Corporation. The copies of CTE, CCA and the registration certificate issued by the GPCB has been appended with the affidavit.

(6) It is submitted that all efforts are being made by the

Commissioner, Junagadh Municipal Corporation to streamline the process of disposal of plastic waste strictly in compliance of the Plastic Waste Management Rules' 2016. It is also pointed out that the Junagadh Municipal Corporation has planned and floated an Expression of Interest (EOI) for Integrated Services of Primary and Secondary Segregated Collection and Transportation of Municipal Solid Waste and Engineering Procurement Commissioning and Operation and Maintenance of Transfer Station and Auto Segregation for Fifteen Years. The copy of floated EOI and NIT has been appended with the affidavit with the timeline for development of Integrated Solid Waste Management Facility in a table extracted in paragraph '3.2.9' of the affidavit, which indicates that the trial run of the plant could be conducted in the month of August - September 2025.

(7) For the aberrations in the past, prayer has been made to grant one opportunity to file an explanation before the Court.

(8) Taking note of the above, we provide one more opportunity to the Municipal Commissioner, Junagadh Municipal Corporation to submit his explanation in compliance of the order dated 01.10.2024.

(9) On behalf of the State Monitoring Committee, the affidavits dated 23.10.2024 and 25.10.2024 of the Principal Secretary, Panchayat, Rural Housing and Rural Development Department, Gujarat has been placed before us by the learned Advocate General have been placed before us. It is submitted

that necessary instructions have been issued to all the Municipal Corporations and Nagarpalikas for implementation of the Plastic Waste Management Rules' 2016, as a result of the meetings of the Monitoring Committee convened on 25.09.2024 and 23.10.2024.

(10) It is further submitted that all the local bodies have been directed to frame bye-laws. Some have already framed and for those, who have not framed by-laws, instructions have been issued to frame bye-laws to establish a comprehensive system for the storage, processing, and disposal of plastic waste, in coordination with recyclers registered with the GPCB. Instructions have also been issued to the local bodies to engage registered recyclers, enlisted with the GPCB. The Mission Director, Swatch Bharat Mission has been entrusted with the task of ensuring that all Municipal Corporations as well as Nagarpalikas process the plastic waste within their respective jurisdictions in accordance with the Plastic Waste Management Rules' 2016 with the help of the recyclers registered with the GPCB. Weekly meetings have been held by the Principal Secretary, Urban Development and Urban Housing Department with the Municipal Commissioners of all Municipal Corporations and by the Commissioners of Municipalities with all Regional Commissioners of Municipalities, to assess the actions taken in regard to the issues discussed in the aforesaid meetings of the monitoring committee. To supervise the work undertaken by the Village Panchayats, 33 District Panchayats have been engaged to collect the details and forward the same to the monitoring

committee.

(11) Taking note of the above, we find it fit and proper to require the Monitoring Committee to identify and categorize the cities in the State, which are generating maximum plastic waste and to work out the solution for management of such waste by engaging solutions available for the purpose. It would be in the fitness of the things that few of state of art facilities are created in the State for management and disposal of garbage as well as plastic waste.

(12) On the part of GPCB, Ms. Manisha Lavkumar Shah, learned Senior Counsel would submit that the instructions have been issued to all the local bodies indicating the norms to be followed and information in a table, as demonstrated before us, which contains in a communication dated 15.10.2024 at Page '1350 / 1351' of the paperbook has been placed. For effective implementation of the rules by each local bodies in the matter of segregation and disposal of plastic waste, the information sought for by the GPCB in the said table, in the opinion of the Court, would be quite relevant. The GPCB shall make all endeavour to collect the requisite information, collate the data and do the needful.

(13) During the course of arguments, it was intimated that two standard operating procedures had been published by Ministry of Housing and Urban Affairs and Ministry of Jal Shakti, which are required to be circulated amongst all local bodies in the State for strict compliance. The learned Senior

Advocate appearing for the GPCB shall report the compliance on the next date fixed by filing the affidavit of the competent officer of the GPCB.

(14) At this stage, Ms. Manisha Lavkumar Shah, learned Senior Counsel appearing for the GPCB prays for and is granted permission to make necessary corrections in the pagination of the affidavit filed on behalf of GPCB.

(15) Put up this matter on **06.12.2024**.

(SUNITA AGARWAL, CJ)

(PRANAV TRIVEDI,J)

SAHIL S. RANGER