

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

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Appearance:

PARTY IN PERSON(5000) for the Applicant(s) No. 1
MR KRUTIK PARIKH AGP for the Opponent(s) No. 1,2,3,4
MR HS MUNSHAW(495) for the Opponent(s) No. 5

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**CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
SUNITA AGARWAL
and
HONOURABLE MR. JUSTICE ANIRUDDHA P. MAYEE**

Date : 04/01/2024

ORAL ORDER

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

1. In the joint affidavit of the Deputy Collector, Deputy Conservator of Forests, Junagadh Division, Junagadh and Deputy Municipal Commissioner, Junagadh Municipal Corporation filed today in the Court, the report of several steps taken by them to curb the use of plastic water bottle and maintaining cleanliness of the area has been placed on record. It is submitted therein that the shopkeepers in the vicinity have been mandated not to sell plastic water bottles and provide the water to tourists through the alternative sources provided by the District Administration and the Municipal Corporation. The Home guards and volunteer force have been deputed to frisk tourists to deter them from carrying of the

plastic water bottles and other plastic material in and around the area. It is stated that 600 water bottles of 20 liters capacity each have been provided to 120 vendors and shopkeepers and the source of water for refilling the same has been provided. It is resolved that the water in the area will be sold at the price of Rs.1 to Rs.5 by the vendors in paper cups or through tetra packs. The special drive for maintaining cleanliness of 3600 stairs is being conducted on daily basis from Ambamataji temple to Dattatreya temple and for the purpose, cleaners and supervisor have been deputed through the outsourcing agency. A perusal of the averments made in the affidavit indicates that till date, 12.75 tons of waste has been collected and removed from the area and efforts are being made for minimal accumulation of waste and making the area as Eco- sensitive zone.

2. Our attention is further invited to the notification dated 31.05.2012 of the Ministry of Environment and Forests, Government of India, whereby 17827.29 hectare of Girnar Reserve Forest in Junagadh Taluka and Bhesan Taluka of Junagadh District has been declared as Girnar Wildlife Sanctuary. It is notified therein that in exercise of the power conferred by sub-section (1) read with clause (v) and clause (xiv) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 and sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 the area upto 5 kilometers from the boundary of the protected area of Girnar Wildlife Sanctuary, enclosed within the boundary described below in the Girnar Reserve Forest in Junagadh and Bhesan Talukas of Junagadh District in the State of Gujarat, is the Eco-sensitive Zone (herein after called as the Girnar Eco-sensitive Zone). The notification provides that the Girnar Eco-sensitive Zone shall be with a

peripheral area of about 9317.58 hectares including 27 villages of Junagadh and Bhesan Talukas. The radius of Eco-sensitive zone is 0-5 kilometers. The map and the boundary Global Positioning System points of the Eco-sensitive Zone is enclosed with the notification as Annexure-I, as also the list of the villages falling within Girnar Eco-sensitive zone is appended as Annexure-II.

3. There is no dispute about the fact that the temples of Ambamataji and Dattatreya are lying within the Girnar Eco-sensitive zone as declared by the notification dated 31.05.2012. Clause 3 of the notification provides prohibited, regulated and permitted activities in the Eco-sensitive zone and states that subject to the provisions of clause 3, the activities in the Eco-sensitive zone shall be regulated in accordance with Annexure-III to the notification. A perusal of clause 3 further indicates that various activities, such as, tourism activities in the Eco-sensitive zone are to be regulated and for the purpose, the Tourism Master Plan, which shall emphasize on ecotourism, Eco-education and Eco-development, shall be prepared by the Department of Tourism in consultation with the Department of Environment and Forest and shall be a component of the Zonal Master Plan. One of the prohibited activities as per clause 3 of the notification is use of plastic polythene bags by the shopkeeper and disposal of plastic articles. There are provisions with respect to regulation of solid waste in the area.

4. The notification further provides that in exercise of power conferred by sub section (3) of Section (3) of the Environment Protection Act, 1986, the Central Government constitutes a committee to be called "the Girnar Eco-sensitive Zone Monitoring Committee" as provided in clause (4) (2) of the notification dated

31.05.2012, which is relevant to be extracted herein as under:

“(2) The Monitoring Committee referred to in subparagraph (1) above, shall consists of not more than ten members who shall represent the following, namely:-

- (a) Collector, Junagadh - Chairman;
- (b) a representative of the Ministry of Environment and Forests, Government of India -Member;
- (c) one representative of Non-governmental Organizations working in the field of environment (including heritage conservation) to be nominated by the Government of India - Member;
- (d) Regional Officer, Gujarat State Pollution Control Board, Junagadh - Member;
- (e) Senior Town Planner of the area- Member;
- (f) a representative of the Department of Forests and Environment, Government Of Gujarat - Member;
- (g) one expert in the area of ecology and environment to be nominated by the Ministry of Environment and Forests, Government of India - Member;
- (h) Deputy Conservator of Forests (In Charge of the Sanctuary), Junagadh - Member Secretary.

5. It is further provided that the powers and functions of the Monitoring Committee so constituted shall be restricted to the compliance of the provisions of the notification itself. Any activity, which is prohibited, regulated and permitted in the Eco-sensitive Zone, is to be monitored by the Committee so constituted. Clause (6) and (7) of the notification are also relevant to be taken note of as under :-

“(6) The Chairman or the Member Secretary of Monitoring Committee shall be competent to file complaints under section 19 of the Environment (Protection) Act, 1986 for non-compliance of the provisions of this notification.

(7) The Monitoring Committee shall submit its annual action taken report of its activities by the 31st March of every year to the Central Government in Ministry of Environment and Forests.”

6. A careful reading of the notification indicates that the Central Government has mandated the constitution of the Monitoring Committee to ensure compliance of the provisions of the notification and in case of non-compliance, the Chairman/Member Secretary of the Committee is required to file complaints under Section 19 of the Environment (Protection) Act, 1986. The Monitoring Committee is also required to submit its annual action taken report of its activities by 31st March of every year to the Central Government in Ministry of Environment and Forests. From the composition of the Monitoring Committee as noted herein above, the Collector, Junagadh is its Chairman.

7. Having gone through the notification and the stand of the respondents in the affidavit filed today, it seems that the Monitoring Committee as constituted by the Central Government vide notification dated 31.03.2012 has not been set in place. There is no averment with regard to any such action taken by the Monitoring Committee for a period of 11 years from the date of issuance of the notification. We apprehend that the Collector is not even aware of such a notification. The reason being that all the actions to remove the plastic garbage, putting ban on use of the plastic bottles in the

area have been taken only after intervention of this Court in the instant Public Interest Litigation.

8. We, therefore, call upon the District Collector to file his personal affidavit to bring on record the action taken report, if any, submitted during the interregnum, i. e. period of 11 years, to comply with the mandate of the notification dated 31.05.2012 of the Central Government/Ministry of Environment and Forests. An explanation is also to be given for not taking note of the notification prior to the intervention made by this Court in the present matter. It may further be noted that from the joint affidavit filed by three officials as noted herein above, only curb which seems to have been put in place is the use of plastic water bottles. There is no clear action plan with regard to ban on plastic bags and other plastic material in the area in question. The Collector, Junagadh, therefore, is required to ensure that the Monitoring Committee is put in place immediately, if it is not constituted and it is not active so far and prepare a comprehensive plan to ensure strict compliance of the Central Government notification dated 31.05.2012. The affidavit of the Collector, Junagadh to comply with the above directions shall be filed on 12.02.2024.

Stand over to 12.02.2024.

(SUNITA AGARWAL, CJ)

(ANIRUDDHA P. MAYEE, J.)

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