

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/WRIT PETITION (PIL) NO. 118 of 2020****With****CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2020****In R/WRIT PETITION (PIL) NO. 118 of 2020****With****CIVIL APPLICATION (DIRECTION) NO. 1 of 2021****In R/WRIT PETITION (PIL) NO. 118 of 2020****With****CIVIL APPLICATION (FOR JOINING PARTY) NO. 2 of 2020****In R/WRIT PETITION (PIL) NO. 118 of 2020****With****CIVIL APPLICATION (FOR JOINING PARTY) NO. 2 of 2021****In R/WRIT PETITION (PIL) NO. 118 of 2020****With****CIVIL APPLICATION (FOR DIRECTION) NO. 5 of 2021****In R/WRIT PETITION (PIL) NO. 118 of 2020**=====

AMIT MANILAL PANCHAL**Versus****STATE OF GUJARAT**
=====**Appearance:****PARTY IN PERSON(5000) for the Applicant(s) No. 1****for the Opponent(s) No. 1,12,13,14,15,2****MR DHAVAL G NANAVATI(2578) for the Opponent(s) No. 11,7****MR HS MUNSHAW(495) for the Opponent(s) No. 10,5,6,8,9****MR MIHIR JOSHI, SENIOR ADVOCATE WITH MR SATYAM Y
CHHAYA(3242) for the Opponent(s) No. 3****NOTICE SERVED(4) for the Opponent(s) No. 4****MR KAMAL TRIVEDI , ADVOCATE GENERAL WITH MS MANISHA
LUVKUMAR SHAH, GOVERNMENT PLEADER WITH MR SAHIL B.
TRIVEDI, ASSISTANT GOVERNMENT PLEADER FOR RESPONDENT
NO. : 1****MR PERCY KAVINA, SENIOR ADVOCATE WITH MR JINESH KAPADIA
FOR RESPONDENTS NO. 13 and 14 IN CA NO. 5 OF 2021****MR MEHUL SHARAD SHAH FOR RESPONDENT NO 12 IN CA NO. 5
OF 2021**
=====**CORAM: HONOURABLE MS. JUSTICE BELA M. TRIVEDI****and****HONOURABLE MR. JUSTICE BHARGAV D. KARIA**

Date : 01/06/2021

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)

1. Heard Mr. Amit Manilal Panchal party-in person, learned Advocate General Mr. Kamal Trivedi appearing with learned Government Pleader Ms. Manisha Luvkumar Shah assisted by learned Assistant Government Pleader Mr. Sahil B. Trivedi for the respondent-State, learned Senior Advocate Mr. Mihir Joshi assisted by learned advocate Mr. Satyam Chhaya for the Ahmedabad Municipal Corporation, learned advocate Mr. H.S. Munshaw appearing for Jamnagar Municipal Corporation, Vadodara Municipal Corporation, Junagadh Municipal Corporation and Gandhinagar Municipal Corporation, learned advocate Mr. Dhaval Nanavati appearing for Surat Municipal Corporation and Bhavnagar Municipal Corporation, learned advocate Mr. Mehul Sharad Shah appearing for Bharuch Nagar Palika, learned Senior Advocate Mr. Percy Kavina assisted by learned advocate Mr. Jinesh Kapadia appearing for respondent nos. 13 and 14 in Civil Application No. 5 of 2021 through video conference.

2. Pursuant to the directions issued vide order dated 25.05.2021, charts/tables giving details about the compliance, non-compliance and partial compliance of the directions issued by the Court on 15.12.2020 and 26.02.2021 are submitted on

behalf of respondent no.1 State of Gujarat and respondent no.3 Ahmedabad Municipal Corporation along with additional affidavits filed by the respective Regional Commissioner of Municipalities i.e. Ahmedabad, Vadodara, Bhavnagar, Surat, Rajkot and Gandhinagar by placing on record the details of hospitals, schools, factories, industrial units and other buildings which are not having Fire NOC and which are not possessing Building Use Permission. Additional affidavits are also filed on behalf of Jamnagar Municipal Corporation respondent no.5, Vadodara Municipal Corporation respondent no.6, Surat Municipal Corporation respondent no.7, Junagadh Municipal Corporation respondent no.9, Gandhinagar Municipal Corporation respondent no.10 and Bhavnagar Municipal Corporation respondent no.11 providing the details of list of hospitals, buildings and summary of other buildings having no Fire NOC.

3.Mr. Amit Manilal Panchal, party-in-person submitted that pursuant to the directions issued by the Court on 15.12.2020 and 26.02.2021, though details with regard to hospitals, schools and other industrial units which do not have Fire NOC are provided, but, details with regard to high rise buildings having no Fire NOC are not provided by the respondents. Mr. Panchal submitted that respondent State and six other Municipal Corporations have not complied with

the directions issued by the Court from time to time since last more than two decades.

4. Learned Senior Advocate Mr. Mihir Joshi assisted by learned advocate Mr. Satyam Chhaya appearing for respondent no.3 Ahmedabad Municipal Corporation referred to the chart prepared for compliance, non-compliance and partial compliance of the directions issued earlier by the Court and submitted that respondent no.3 Corporation does not issue Building Use Permission without Fire NOC. It was pointed out that the requirement of Fire NOC is mandatory at the time of issuing Building Use Permission. It was submitted that respondent Corporation is not having any data with regard to renewal of Fire NOC on expiry of one year. It was submitted that now respondent no.3 Corporation is to implement computerised system to track the renewal of Fire NOC to be issued and it would be made functional within a short time. It was also submitted that with a meager staff of about 200 persons , it is difficult for respondent no.3 Corporation to submit the details of buildings having no Building Use Permission or no valid Building Use Permission. Upon instructions, learned Senior Advocate Mr. Mihir Joshi submitted that the details with regard to the buildings having no Fire NOC is under compilation which shall be submitted within a week. Mr. Joshi also submitted with regard to the issue of not having valid Fire NOC,

respondent no.3 Corporation has started taking action and respondent no.3 Corporation is actively considering to resolve the issue of buildings not having valid and subsisting NOC with regard to Fire Prevention and Protection System. Mr. Joshi submitted that in view of the amendment made by the State Government in Gujarat Fire Prevention and Life Safety Measures (Amendment) Act, 2013 (for short "Fire Safety Measures Act") with regard to Fire NOC, respondent no.3 Corporation is to take measures to see that the buildings having no valid Fire NOC are subjected to Fire Safety Measures as provided under the Fire Safety Measures Act and other guidelines issued from time to time by the National Building Code and National Disaster Management Authority. Mr. Joshi submitted that respondent no.3 Corporation shall do the needful with regard to implementation of Fire Safety Measures in the hospitals, schools and high rise buildings in a phase-wise manner and shall report to the Court with regard to the action taken by the respondent no.3 Corporation from time to time to resolve the issue instead of adopting ad hoc approach.

5. The learned advocates appearing for the other respondent Corporations adopted the submissions made by the learned Senior Advocate Mr. Joshi and assured the Court to do the needful and submit the action taken report from time to time.

6. Learned Advocate General Mr. Kamal Trivedi appearing for the respondent State referred to the chart giving details about the compliance, non-compliance and partial compliance of the earlier directions of the Court and submitted that most of the directions are partially complied with and details with regard to hospitals, schools, industrial units and other buildings having no Fire NOC have been provided by various Regional Municipal Commissioners by filing additional affidavits. It was also submitted that with regard to the issue of not obtaining Building Use Permission and starting to use the building without such permission or invalid permission, is having a very wide impact, which shall be considered by the State.

7. Learned Advocate General Mr. Kamal Trivedi further submitted that the Rules for implementing the Clinical Establishments (Registration and Regulation) Act, 2021 passed by the State of Gujarat is on the verge of completion so as to implement the same. Reference was also made to the amended Fire Safety Measures Act and submitted that in view of the amendments, there shall be effective implementation of the Fire Safety Measures Act. Learned Advocate General referred to the affidavit filed on behalf of the State on 24.02.2021 as well as additional affidavits filed today and pointed out that number of

hospitals and schools not having Fire Safety NOC have been reduced even during this pandemic period. It was submitted that before the next date of hearing, the State would also provide the details of the high rise buildings and other establishments not having Fire NOC pursuant to the earlier directions issued by the Court along with the action taken report.

8. Let the respondent State and other respondent Corporations file additional affidavits giving details of high rise buildings, hospitals, schools and other establishments which are not having Fire NOC, if same are not provided till date, before the next date of hearing.

Order in Civil Application No.5 of 2021 :

1. Learned Senior Advocate Mr. Percy Kavina, assisted by learned advocate Mr. Jinesh Kapadia for respondent nos. 13 and 14 states that further affidavit is filed with regard to visit of inspection team from Bharuch Nagarpalika on 30.04.2021 at the hospital of respondent trust. Learned Senior Advocate Mr. Kavina referring to the additional affidavits filed by the respondent State, Bharuch Nagarpalika and respondent no.15- Chief District Medical Officer, Bharuch submitted that the averments made therein are not true and correct, more particularly with regard to the inspection carried out on 30.04.2021 because there was only

one Covid treatment facility existing at the relevant time in the new building which was not inspected by the Fire Inspection Team and therefore, the averments made by the respondents that only old building was shown to the Fire Inspection Team by respondent nos. 13 and 14 is not correct as Covid treatment was not provided in the old building since November 2020.

2. Learned Advocate General Mr. Kamal Trivedi submitted that additional affidavit is also filed on behalf of the State Government to produce on record the developments which took place after filing of the affidavit in reply dated 10.05.2021 to point out that office of the Commissioner of Health, Medical Services and Medical Education has issued a notice dated 10.05.2021 to respondent no.15 Chief District Medical Officer, Bharuch calling upon him to explain the aspects referred to in the said notice and in response thereto, the respondent no.15 has submitted his reply vide letter dated 21.05.2021 and further by letter dated 13.05.2021, respondent no.12 Bharuch Nagarpalika has suspended the In-charge Head Fireman, Bharuch Nagarpalika pending inquiry against him. Relevant documents are produced along with additional affidavit.

3. In view of the absence of relevant facts with regard to details of inspection of fire system made on 30 th April, 2021 at the hospital

premises of the respondent nos.13 and 14, the two persons from Bharuch Nagarpalika who had visited the premises of respondents no.13 and 14 on 30.04.2021 for inspection of the fire system are directed to file their affidavits giving details of the inspection carried out by them along with copy the report prepared by such persons and submitted to competent authority before the next date of hearing.

4. Let all the matters be put up for further hearing on 11.06.2021.
5. Registry to notify the appearance on behalf of newly added respondent nos. 12 to 15 in the cause list.

(BELA M. TRIVEDI, J)

(BHARGAV D. KARIA, J)

RAGHUNATH R NAIR