

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/WRIT PETITION (PIL) (WRIT PETITION (PIL)) NO. 118 of 2020****With****R/WRIT PETITION (PIL) NO. 34 of 2024****With****CIVIL APPLICATION (FOR JOINING PARTY) NO. 4 of 2024****In R/WRIT PETITION (PIL) NO. 34 of 2024**=====
AMIT MANILAL PANCHAL**Versus****STATE OF GUJARAT & ORS.**
=====**Appearance:****WPIL NO.118 of 2020****MR AMIT M PANCHAL with with MR ANGESH A PANCHAL PARTY IN PERSON(5000) for the Applicant(s) No. 1****MR KAMAL TRIVEDI, ADVOCATE GENERAL with MR VINAY BAIRAGRA, ASST.GOVERNMENT PLEADER for the Opponent(s) No. 1,2****MR KAMAL TRIVEDI, ADVOCATE GENERAL with G H VIRK(7392), GOVERNMENT PLEADER for the Respondent(s) No. 3****MR HS MUNSHAW(495) for the Opponent(s) No. 5,6,8,9,10****MR KAUSHAL D PANDYA(2905) for the Opponent(s) No. 7,10 & 11****NOTICE SERVED for the Opponent(s) No. 4****WPIL NO.34 OF 2024****MR DM DEVNANI, LEARNED AMICU CURIAE****MR KAMAL TRIVEDI, ADVOCATE GENERAL with MR VINAY BAIRAGRA, ASST.GOVERNMENT PLEADER for the Respondents (s) No. 1,2,3,8,9,10****MR KAMAL TRIVEDI, ADVOCATE GENERAL with G H VIRK(7392)****GOVERNMENT PLEADER for the Opponent(s) No. 4,5,7,11,12,13****MR HS MUNSHAW(495) for the Opponent(s) No. 15 & 16****MR KAUSHAL D PANDYA(2905) for the Opponent(s) No. 6,14,17,18**
=====**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. By means of the order dated 27.09.2014, while taking exception to the manner in which the response of the present Municipal Commissioner, Rajkot Municipal

Corporation has been submitted in the affidavit dated 26.09.2024, we have required the then Municipal Commissioners of the Rajkot Municipal Corporation, who were posted in the Municipal Corporation, Rajkot during the upcoming of the TRP Game Zone and the fire incident occurred in May, 2024, to file their affidavits.

2. In order to ascertain the role played by two Municipal Commissioners posted in Rajkot Municipal Corporation, at the relevant point of time, we required their personal affidavits as also the entire original record containing all papers/communications etc. in the matter of demolition order passed by the Town Planning Officer. We also required the entire case file pertaining to the fire incident occurred on 04.09.2023, which has been placed before us today.
3. Having perused the record, we may note that the State authorities has provided the originals of the following documents :-

“A. List of Documents pertaining to Town Planning Department of Rajkot Municipal Corporation (West Zone)”

1. Town Planning department impact register (2022) [Part-3]
2. Inward letter register 2024-2025
3. Outward notice register [Section 260 (1) and Section 260(2) of Gujarat Provincial Municipalities Act, 1949]
4. Outward letter register [Part-3]
5. Outward letter register 2024-2025.
6. Impact regularization file of application no.

2740 dated 04.05.2024

7. Final order for demolition under Section 260 (2) dated 08.06.2024.
8. TRP game zone original plan file of Rajkot Municipal Corporation.
9. Revised layout plan file of Rajkot Municipal Corporation.

B. List of Documents pertaining to Fire Department of the Rajkot Municipal Corporation.

1. Press note register of Main Fire Station.
 2. Telephone register of main Fire Station.
 3. Telephone register of sub-station Mavdi [Sealed]
 4. Free note register of sub-station Mavdi [Sealed]
 5. Fire report register of fire fighter bearing registration no. GJ-03-GA-1761 of sub-station Mavdi [Sealed]
 6. Log book register of fire fighter bearing registration no. GJ-03-GA-1761 of sub-station Mavdi [Sealed].”
4. Having perused the original documents, it can be borne out that these documents are mainly, the records of the original registers of the Fire Department and Town Planning Department of the Rajkot Municipal Corporation. Insofar as the file with regard to ‘Impact regularization file and the original plan file as well as revised layout plan file would reveal the communication between the original owners and the concerned authority/Town Planning Authority. The record does not indicate about any endorsement of bringing the issue to the notice of the Municipal Commissioner, at any stage of the proceedings.

5. Further the affidavits of two Municipal Commissioners filed in compliance of the order dated 27.09.2024 have also been placed before us by the learned Senior Counsel appearing on behalf of the Corporation. The affidavit dated 23.10.2024 of Mr. Anand Babulal Patel, posted as Municipal Commissioner of Rajkot Municipal Corporation between 05.04.2023 and 28.05.2024 contains the averments of expression of remorse in letter and spirit for the unfortunate incident. It is stated by the Commissioner that he has discharged his duties to the best of his abilities and yet occurrence of the incident has taken a personal toll on him. Another officer namely Mr. Amit Arora posted as Municipal Commissioner, Rajkot between 24.06.2021 and 02.04.2023 has further stated that during his tenure as the Commissioner of the Corporation, he had discharged his duties diligently. He also accepted that he visited the location with his wife and daughter to attend the birthday celebration of a colleague which later became fire-engulfed TRP Game Zone.
6. However, the officer states that had he known that the TRP Game Zone was operating without permission, he would have taken strictest possible action against the owners/operators concerned. The officer has expressed remorse for the incident, which has engulfed TRP Game Zone at Rajkot on 25.05.2024.
7. Taking note of the averments in the affidavits of the officers concerned and the original record pertaining to

the demolition and the fire incident occurred in the TRP Game Zone on 04.09.2023, we have reached at the conclusion that all proceedings pertaining to the coming up of the TRP Game Zone was conducted illegally at the level of the Town Planning Officer and at no stage of the proceedings, it seems that file had travelled to the level of the Municipal Commissioners (two herein), posted at different point of time in the Municipal Corporation, Rajkot

8. With this, we find it fit and proper to put at rest the issue pertaining to the involvement of the Municipal Commissioners posted at relevant point of time at the Rajkot Municipal Corporation in the upcoming of the TRP Game Zone illegally.
9. However, the question about the grant of compensation to the victims out of the pocket of the erring officials is still alive and the same would be considered as and when the occasion arises.
10. On the second issue of the structure of the Fire Department of eight (08) Municipal Corporations, learned Senior Counsel for the Corporation has invited attention of the Court to page no. "1921" of the paper book, wherein it is stated that in exercise of the powers conferred by the first proviso to Section 3(1) of the Gujarat Fire Prevention and Life Safety Measures Act, 2013 (in short as "the Act' 2013"), the State Government has issued a Notification dated 03.10.2020, *inter alia*, declaring that the Fire Brigade by whatever name called

of all Municipalities and Municipal Corporations shall not form part of the State Fire Service. In terms of Sections 4,6 and 7 of the Act' 2013, the superintendence and control over all such fire services of all Municipalities and Municipal Corporations throughout the State vest with the State Government through the officer appointed under its Gujarat Fire Prevention Services. The structure of the Fire Department of the Municipal Corporation has been given in Paragraph No."3" of the said affidavit.

11. It is stated that the Principal Secretary, Urban Development and Urban Housing Department in the meetings held on 04.10.2024, 10.10.2024 and 17.10.2024 has directed all eight (08) Municipal Commissioners to undertake necessary steps so as to strengthen the resources and complete recruitment process in their respective Fire Departments and to provide the requisite data thereof to the deponent who is the Director, Gujarat Fire Prevention Services.
12. On collating the data provided by the Municipal Commissioners, the details of Fire Stations available (operational), new Fire Stations approved, the land allocated and the construction work for new Fire Station started has been placed in a table in Paragraph No.5.1 of the said affidavit, with the timeline within which the project for construction of new Fire Station would be completed.
13. There is a description of the Fire vehicles in operation and further required for different Municipal

Corporations for providing fire services. As regards availability of human resources from the chart presented before us, there is huge vacancy. The contention is that the recruitment process has commenced to fill up the vacancies existing upto 22.10.2024.

14. Taking note of the above, we require the Director, Gujarat Fire Prevention Services to get a timeline for completion of the recruitment process from the eight (08) Municipal Commissioners of the Corporations and place the same before us, so as to demonstrate the progress made in the matter of strengthening fire services in the State.
15. During the course of deliberations, it has been pointed out that in four major cities in the State, namely Rajkot, Surat, Ahmedabad and Vadodara, permission has been granted for construction of high rise buildings upto the height of 130 to 150 meters (about 42 to 45 storeys).
16. A query has been made as to whether the Fire Department of the Municipal Corporations in these cities are equipped to handle any occurrences of fire incident in such high rise buildings. On this, the learned Senior Counsel for the Corporation would submit that he will complete the necessary instructions to place an answer.
17. Lastly, we may take note of the affidavit filed by the Principal Secretary (Primary and Secondary) Education Department, wherein further progress made in the matter of making schools fire safety compliant has been

brought on record. As per the statement therein that there were 771 schools, which were in the process of being fire compliant, 338 out of the same have now become fire compliant and the process of becoming so, is going on in the remaining 433 schools, which will be completed in the near future. Mock drills are being conducted and training is being provided to the staff members to meet any exigency and upto 23.10.2024, mock drills have been conducted in 50,699 schools and training to around 2,97,212 staff members has been imparted.

18. Noticing the above, we post the matter on 20.12.2024 to deliberate on the remaining issues.

(SUNITA_AGARWAL, CJ)

(PRANAV TRIVEDI,J)

SUDHIR