

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****R/WRIT PETITION (PIL) NO. 154 of 2020****With****R/SPECIAL CIVIL APPLICATION NO. 14157 of 2020**

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AMIT MANILAL PANCHAL**Versus****STATE OF GUJARAT**

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Appearance:**PARTY IN PERSON(5000) for the Applicant(s) No. 1****for the Opponent(s) No. 1,2****MR SATYAM Y CHHAYA(3242) for the Opponent(s) No. 3****NOTICE SERVED(4) for the Opponent(s) No. 4**

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CORAM: HONOURABLE MR. JUSTICE J.B.PARDIWALA**and****HONOURABLE MR. JUSTICE ILESH J. VORA****Date : 26/02/2021****ORAL ORDER****(PER : HONOURABLE MR. JUSTICE J.B.PARDIWALA)**

1. Pursuant to the order passed by this Court dated 15th December, 2020,, more particularly, the directions as contained in Paragraph Nos. 23(1) to (14) of the order, the

State Government has filed an additional affidavit. The Ahmedabad Municipal Corporation has also filed further affidavit.

2. Gist of the additional affidavit filed on behalf of the State:-

(A) A detailed and comprehensive exercise has been undertaken to examine the existing provisions of the Gujarat Fire Prevention & Life Measures Act, 2003 as well as the Gujarat Fire Prevention & Life Measures Rules, 2014. After due consideration of the erstwhile provisions of the Act and the Rules, the same came to be amended by the State vide the Gujarat Fire Prevention & Life Measures (Amendment) Ordinance Rules, 2021.

(B) The State also proposes to amend the Act and the Rules by:-

(I) Incorporation of the recommendations of National Building Code of India, 2016 ("NBC" for short) as mandatory requirement under the Act;

(II) Entrusting the duty of Fire Safety Certificate renewal upon the Fire Safety Officer;

(III) The Fire Safety Officers shall compulsorily have to undergo training;

(IV) Building Use certificate cannot be issued without complying with Section 18 of the Act and obtaining Fire Safety Certificate;

(V) Penalising the action of granting Fire Safety Certificate renewal under Section 21(5) without there being actual compliance or maintenance of Fire Prevention and Life Safety measures and equipments.

(C) Para-5 of the affidavit talks about developing a web-application for issue and renewal of the Fire Safety Certificates.

(D) Para-7 of the affidavit talks about recruitment.

(E) Para-9 of the affidavit deals with the various directions issued by this Court vide order dated 15th December, 2020.

(F) Para-9.4 deals with total number of buildings which require Fire NOC to be issued by the various Municipal Corporations in the State.

(G) Para-9.5 deals with the Hospitals, Schools, Factories and Industrial Units not holding a valid NOC and the action taken in that regard.

(H) Para-9.7 deals with the number of buildings not having the BU Permission for the period between 01.01.2009 and 31.12.2020.

(I) Para-9.10 deals with the directions issued by this Court in receipt of the Intensive Care Units in the Hospitals.

3. Gist of the affidavit filed by the Ahmedabad Municipal Corporation:-

(A) Para No.5 says that the Corporation has issued public notices to obtain Fire NOC or renewal of Fire NOC.

(B) Para No.7 talks about the recruitment process in the AFES Department of the Ahmedabad Municipal Corporation.

(C) Para No.8 talks about the types of buildings having valid NOC.

(D) Para No.10 talks about buildings not having NOC and the notices issued to all such buildings and the hospitals being sealed.

Submissions on behalf of Mr. Amit M. Panchal/Party-in-Person:-

4. Mr. Panchal invited the attention of this Court to Clause 3(ii)(k) of the Ordinance, which reads thus:

“Fire prevention and life safety measures” means such measures as are necessary in accordance with the GDCR or as required by or under the provisions of any law or the National Building Code of India, for the time being in force, with regard to fire prevention, life safety and fire protection for containment, control and extinguishing of fire and for ensuring the safety of life and property in case of fire.”

5. Mr. Panchal would submit that the word “OR” has been used between the GDCR and NBC.. He would submit that there cannot be a pick and choose policy. The State should be clear whether it wants to follow the NBC or the GDCR and no ambiguity or any confusion should be left in the larger public interest. In other words, the provision should have clarity. Mr. Panchal referred to the notification in respect of the Rules and submitted that Rule 2(2) is also similarly worded and, in such circumstances, Mr. Panchal wants this Court to direct the State to remove the ambiguity by taking an appropriate

decision whether to invoke the GDCR or NBC.

6. Mr. Panchal would submit that the figure of 16761 being the number of buildings which require Fire NOC as indicated in the chart in Para-9.4 of the affidavit does not appear to be correct having regard to the following;

"16761 buildings require NOC.

15317 : factories & industries + 247: hospitals=17564 buildings which require FIRE NOC + high rise buildings+special buildings + schools.

Therefore, the number 16761 provided by the State is not correct and the number of buildings which would require FIRE NOC would be much larger considering that the high rise buildings + special buildings + schools, would be much larger."

7. Mr. Panchal, thereafter, made a request that the Estate Department of the Ahmedabad Municipal Corporation be directed to provide a complete list of all High Rise Buildings- 15 meters and 18 meters of height and which would include all the special buildings such as schools,, hospitals, industries which have valid NOC and all those buildings which do not have a valid NOC.

8. Mr. Panchal submitted that according to the averments made in Para-9.5 of the affidavit, there are 5199 schools across the State not having a valid and subsisting NOC. This, according to Mr. Panchal, is shocking and in utter disregard of the safety of children. Studying in all such schools. Mr. Panchal invited the attention of this Court to the following:-

- " 1) 579 schools in Vadodara,
- 2) 77 schools in Surat,

- 3) 72 schools in Jamnagar
- 4) 152 schools in Junagadh
- 5) 461 schools in Rajkot
- 6) 28 schools in Gandhinagar
- 7) 3830 schools in various Nagarpalikas and local bodies.

9. Mr. Panchal would submit that the Fire Prevention Services should be operational and existing with NOC in all the schools. Mr. Panchal invited the attention of this Court to the judgment of the Supreme Court in the case of **Avinash Mehrotra vs. Union of India & Ors.**, reported in (2009) 6 SCC 398, more particularly, the directions issued by the Supreme Court which reads as under:

“47. In view of what happened in Lord Krishna Middle School in District Kumbakonam where 93 children were burnt alive and several similar incidences had happened in the past, therefore, it has become imperative to direct that safety measures as prescribed by the National Building Code of India, 2005 be implemented by all government and private schools functioning in our country. We direct that:

(i) Before granting recognition or affiliation, the State Governments and Union Territories concerned are directed to ensure that the buildings are safe and secure from every angle and they are constructed according to the safety norms incorporated in the National Building Code of India.

(ii) All existing government and private schools shall install fire extinguishing equipments within a period of six months.

(iii) The school buildings be kept free from inflammable and toxic material. If storage is inevitable, they should be stored safely.

(iv) Evaluation of structural aspect of the school may be carried out periodically. We direct that the engineers and officials concerned must strictly follow the National Building Code. The safety certificate be issued only after

proper inspection. Dereliction in duty must attract immediate disciplinary action against the officials concerned.

(v) Necessary training be imparted to the staff and other officials of the school to use the fire extinguishing equipments.”

10) Mr. Panchal would submit that in view of the aforesaid judgment of the Supreme Court, it is not open to the State of Gujarat to include the Educational Buildings in the Third Schedule in B(2) and also not issue the advisory as indicated in the Note which could be applicable to the schools in the State of Gujarat, more particularly, when the directions were issued by the Supreme Court way back in the year 2009.

11) In the last, Mr. Panchal submitted that the State Government as well as the Corporation be directed to comply with all the directions issued by this Court vide order dated 15th December, 2020 and they be asked to place the compliance report on record by the next date of hearing.

Submissions of Mr. R.R. Marshal, the learned senior counsel appearing in the Special Civil Application No.14157 of 2020:-

12) Mr. R.R. Marshal, the learned senior counsel would submit that the various directions issued by this Court vide order dated 15th December, 2020 are yet to be complied with by the Ahmedabad Municipal Corporation as well as the State Government. Mr. Marshal brought to the notice of this Court that the authorities of the Ahmedabad Municipal Corporation have applied seals on the premises of the Shrey Hospital and

all efforts are being made by the owner of the Shrey Hospital to see that the seals are removed and he is permitted to once again start the hospital. Mr. Marshal would submit that the Shrey Hospital cannot be permitted to be run in the building concerned as the said building was originally made for residential purpose, but later, the plans were revised by the Corporation contrary to the Rules and Regulations, for which the liability of the erring officials should also be fixed.

13) Mr. Marshal would submit that eight innocent lives were lost in the fire at the Shrey Hospital, and all that the police has done is to file a charge-sheet for the offence punishable under Section 304A of the IPC, i.e., rash and negligence act. According to Mr. Marshal, having regard to the genesis of the occurrence or manner, in which, the accident occurred, the same would constitute an offence of culpable homicide not amounting to murder punishable under Section 304 of the IPC.

14) Mr. Marshal has a very serious grievance to redress against the commission appointed by the State Government under the Commission of Enquiries Act, 1952 to probe into the unfortunate incident that occurred at the Shrey Hospital. According to Mr. Marshal, the family members of the victims have been requesting the Commission to provide them with certain papers but the commission, so far, has not thought fit to look into the matter or entertain the request made by the family members of the victims. Mr. Marshal prays that appropriate directions be issued in this regard.

15) We take notice of the fact that the Ahmedabad Hospital &

Nursing Home Association (AHNHA) has filed an application, seeking to be impleaded as a party respondent in this litigation.

16) Mr. Yogesh Motiramani, the learned counsel has appeared on behalf of the Association. According to Mr. Motiramani, the association is ready and willing to extend full cooperation to both, the State as well as to the Corporation. Mr. Motiramani would submit that he is not here to oppose the PIL. He prays that the association may be permitted to be joined as a party-respondent so that appropriate reply can be filed.

17) We also take notice of the fact that Mr. Vijal Desai, the learned counsel has appeared on behalf of the Shrey Hospital. According to Mr. Desai, he would be filing his reply by the next date of hearing. He clarifies that at the time of the unfortunate incident, his client had a valid NOC.

18) Mr. Kamal Trivedi, the learned Advocate General submitted that this Court may draw the attention of the State Government as well as that of the Corporation in any areas where both are lacking or improvement is necessary. Mr. Trivedi would submit that this Court may issue appropriate directions and such directions shall be abided by the State as well as by the Corporation. Mr. Trivedi submitted that the State Government, with all seriousness, is considering to adopt the Clinical Establishments (Registration & Regulation) Act, 2010 (for short "the Act, 2010). According to Mr. Trivedi, all necessary steps in that regard are being taken, and the State

Government is very keen to adopt the same and frame appropriate rules in larger public interest. Mr. Trivedi makes a request that, as on date, only the Ahmedabad Municipal Corporation is before this Court, whereas the other seven municipal Corporations should also be impleaded as party respondents and their response should also be called for.

19) Having heard the learned counsel appearing for the respective parties and having regard to the additional affidavits placed on record of this case, we propose to issue the following directions;

(A) Let notice be issued to the following Corporations, returnable on 5th April, 2021;

- (i) Jamnagar Municipal Corporation;
- (ii) Vadodara Municipal Corporation;
- (iii) Surat Municipal Corporation;
- (iv) Rajkot Municipal Corporation;
- (v) Junagadh Municipal Corporation;
- (vi) Gandhinagar Municipal Corporation;
- (vii) Bhavnagar Municipal Corporation;

(B) Notice to all the above referred Corporations shall be served through the respective Commissioner of each of the Corporations.

(C) We direct all the Municipal Corporations to place on

record by way of an affidavit, a list of all the high rise buildings –15 metres and 18 metres in height, special buildings, schools, hospitals, industries and factories within the jurisdictional limits of all the Municipal Corporations :

a. Which have a valid and subsisting No Objection Certificate with regard to the Fire Prevention and Protection Systems in the State of Gujarat ;

AND

b. Which do not have a valid and subsisting No Objection Certificate with regard to the Fire Prevention and Protection Systems in the State of Gujarat;

(D) We direct the Municipal Commissioners of all the Municipal Corporations to state on affidavit what action has been taken by the Municipal Corporations against the erring high rise buildings – 15 metres and 18 metres in height, special buildings, schools, hospitals, industries and factories within the jurisdictional limits of all the Municipal Corporations, which do not have a valid and subsisting No Objection Certificate;

(E) The Respondent No. 4–Ahmedabad Municipal Corporation is directed to place on record by way of an affidavit, the details of all the private hospitals which have not complied with the directions issued in Paragraph No. 23(14) of our earlier Order dated 15.12.2020;

(F) The Respondent No. 4–Ahmedabad Municipal Corporation

is directed to place on record the photocopies of the No Objection Certificates issued to all the hospitals located within the jurisdictional limits of Ahmedabad Municipal Corporation signed and certified by the Competent Authority within a period of 10 days from the date of the receipt of this order. One set of such photocopies shall also be furnished to the party-in-person.

(G) The Ahmedabad Municipal Corporation is directed not to remove or open the seals applied at the premises of the Shrey Hospital without the permission of this Court and shall not permit the Management to once again start with the functioning of the Hospital without the permission of this Court.

(H) The Respondents are directed to take immediate action in respect of the 5199 schools in the State of Gujarat which admittedly do not have a valid and subsisting No Objection Certificate with regard to the Fire Prevention and Protection Systems in the State of Gujarat, more particularly considering the safety and well being of the students studying in the schools including the teachers, management and the staff working therein;

(I) We request the Learned Advocate General to kindly take remedial steps in respect of Section 3(ii)(k) of the Ordinance at Page 771, and with regard to Rule 2(2) in the Notification at Page 778;

(J) For the present, we are not going into the issue as regards the criminal prosecution instituted against the

accused persons with respect to the fire at the Shrey Hospital. It is not for this Court to determine, at this stage, whether the offence is one of rash and negligent act punishable under Section 304A of the Indian Penal Code or is one of culpable homicide not amounting to murder punishable under Section 304 of the Indian Penal Code. The Investigating Agency has rightly or wrongly filed the charge-sheet for the offence punishable under Section 304A of the Indian Penal Code. However, this issue can be gone into by the Trial Court even at the time of framing of the charge. At any stage of the trial before the judgment is pronounced, the Trial Court is also empowered to add or alter the charge in exercise of power under Section 216 of the Cr.P.C. Be that as it may, the charge-sheet has already been filed culminating in the Criminal Case No.75736 of 2020. We are informed that the criminal case, referred to above, is pending in the court of the Metropolitan Magistrate, Court No.23. We are further informed that the said case, as on date, is for issue of summons to the accused persons. We take notice of the fact that Section 304A of the IPC is a summons triable case and no formal charge need to be framed. All that is required in law is to record the plea of the accused and, thereafter, start with the recording of the evidence. Having regard to the facts and circumstances of the case, we direct that the Criminal Case No.75736 of 2020, pending in the court of the Metropolitan Magistrate, Court No.23, shall be transferred to the court of the Chief Metropolitan Magistrate, Ahmedabad. The Chief Metropolitan Magistrate, Ahmedabad shall take charge of the criminal case, referred to above, and see to it that the summons is served upon the accused persons at the earliest. If there is any attempt on the part of any of the accused to evade the service

of summons, then the Trial Court shall take appropriate steps in that regard. We do not want the trial to get delayed in any manner. In the course of the trial, it shall be open for the prosecution including the family members of the victims to raise the issue as regards the exact nature of the offence. On the next date of hearing, this Court shall be apprised of the further developments as regards the criminal case registered against the accused persons.

(K) The Respondents are hereby directed to file an Affidavit indicating compliance of all the other directions issued by this Court;

Clinical Establishments (Registration and Regulation) Act, 2010

20. At this stage, we would like to observe as regards the Clinical Establishments (Registration and Regulation) Act, 2010. In the past, on many occasions, we have tried to impress upon the State Government to adopt the Act 2010 and frame appropriate rules with a view to provide the minimum standards of medical facilities and services to the people at large. The Act 2010 has been enacted by the Parliament to provide for the registration and regulation of the clinical establishments in the country with a view to prescribe the minimum standards of facilities and services to be provided by them with a view to achieve the mandate of Article 47 of the Constitution of India. The said Act has been enacted by the Parliament in exercise of powers conferred under Article 252(1) of the Constitution of India pursuant to the resolutions passed

by the Houses of the Legislatures of the States of Arunachal Pradesh, Himachal Pradesh, Mizoram and Sikkim to regulate the aforesaid matter by the Parliament by law. The said Act has taken effect in the aforesaid four States and all the Union Territories (except the NCT of Delhi) since 1st March 2012 vide the Gazette Notification dated 28th February 2012. As per the provisions of Article 252(1) of the Constitution of India, even after the enactment of the Act by the Parliament, it is open for any of the other States to adopt the Act by merely passing a resolution to that effect in its Legislature.

THE CLINICAL ESTABLISHMENTS (REGISTRATION AND REGULATION) ACT, 2010

What does 'clinical establishment' mean ?

A clinical establishment means a hospital, maternity home, nursing home, dispensary, clinic, sanatorium, or any other institution that offers services, facilities requiring diagnosis, treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicine. It also includes laboratory and diagnostic centre or any other place where pathological, bacteriological, genetic, radiological, chemical, biological investigations or other services with aid of laboratory or other medical equipment are carried out. (Refer to the Definition in the CEA 2010.)

Who is covered under this Act ?

All clinical establishments across all recognized systems of medicine (i.e. Allopathy, Ayurveda, Yoga, Naturopathy, Homoeopathy, Siddha, Unani and Sowa Rigpa) in both public

and private sector are covered under this Act. This includes, all establishments owned, controlled or managed by the Government, a trust (public or private), a corporation registered under a Central, Provincial or State Act (whether or not owned by the Government), a local authority and a single doctor.

We may give a fair idea about the salient features of the Act 2010 :

(i) The Act:

(a) Assists in generation of reliable and comprehensive database (or registry) for all types of clinical establishments in the country at district, state and national level.

(b) Helps classify various types of clinical establishments into categories & determine category wise basic minimum standards.

(c) Defines basic minimum standards for operation, using participatory and consultative approach to ensure uniformity across all establishments. The minimum standards indicate basic standards which are mandatory and certain standards which are desirable.

(d) Assists Government in obtaining information and data required from clinical establishments for public health interventions including outbreak and disaster

management

(ii) It establishes the multi-stakeholder bodies, namely, National Council for Clinical Establishments at National level, State Council for clinical establishments at State level and District Registration Authority at each district. The implementation of the Act is by the respective State through the State Council and District Registration Authority.

(iii) The Act allows for two-step process of registration – provisional and permanent registration. Provisional registration is done through a process of self-declaration, without any inquiry or inspection. Permanent registration would be undertaken after categorization, classification and notification of category wise minimum standards.

(iv) The Act places the entire process of registration and the data of clinical establishments in the public domain which ensures transparency.

(v) Details of charges, facilities available would be prominently displayed at a conspicuous place at each establishment.

(vi) Registry of clinical establishments would aid in policy formulation and resource allocation.

(vii) Cancellation of registration would occur at any time, if conditions for registration are not complied with. (viii) Clinical

Establishment to provide emergency medical treatment within staff and facilities available.

(ix) The Act may control or act as deterrent against quackery by introducing registration which is applicable only to clinical establishments of recognized systems of medicine and no one can run a clinical establishment without registration.

(x) It lays down provisions for healthcare providers to maintain records and reporting as prescribed and provide information and statistics that may be asked for by the authority.

What is the role of the Central Government and State Governments in implementation of the Act ?

It is true that health is a State subject and, therefore, it is not enforced on any State. The State has to adopt the Act by passing a resolution in the Legislature Assembly of the State. The Bill was passed by the Parliament after four States agreed to enforce the Act after the notification.

As per the provisions of the Act, the Central Government is responsible for :

- Notification of the Act (Completed)
- Notification of the National Council and Rules for the functioning (Completed).
- Classification & Categorization of the Clinical

Establishments by Central Government based on the recommendations of the National Council (Completed).

- Establish Minimum Standards for the different categories of Clinical Establishments based on the recommendations of the National Council.
- Develop and prescribe the form and manner in which the registry (National, State & District level) is to be maintained.
- Provide oversight and assistance to the States and UTs for the implementation of the CEA 2010 including capacity building.
- Assistance for the drafting of Rules under Section 54 of the Act. Draft of Model Rules circulated to all implementing States/UTs.
- Assist States & UTs in adoption of the proposed web based registration system and off-line registration systems.
- Assistance to the State & UTs Councils for any other matter that may be required.

The State Governments would be responsible for :

- Notification of State Rules under Section 54 of the Act Constitute & notify the State/Union Territory Council of Clinical Establishments.
- Constitute & notify District Registration Authorities in all districts.

- Begin the process of provisional registration.
- Identification and notification of Registrars of Clinical Establishment at State Level (Director of Health Services) and District level (District Health Officer).
- Disseminate information about the Act and Rules at various levels and among stakeholders.

What is the Objective of the Act ?

The purpose of Clinical Establishment Act is to make available a database of Clinical Establishments which are authorized to function. Therefore the overall objective is improvement in public health quality by eliminating quacks.

Other objectives are :

- To prescribe basic minimum standards for different categories of clinical establishments for ensuring provision of proper health-care by the clinical establishments.
- To collect the required statistics from clinical establishments for policy formulations, planning, implementation, response and evaluation.

What is the benefit for the clinical establishment by registration under the Act ?

- Provisional Registration is without any inquiry or inspection, on the basis of the information submitted by the establishment.
- Registration will also help isolate and identify the hundreds of thousands of quacks that are playing havoc with the lives of millions of people all over the country.
- Once in place, the system of registration will help in improving the standards of health-care establishments within a couple of years. It will also bring about some uniformity in the standards of care across the country.
- Registration will help the Clinical Establishment become part of district, state and National registry and help government to collect necessary inventory for better health-care management and allocation of infrastructure, human resources, equipment's, logistics etc.
- There will be enhanced trust of patients in the Clinical Establishments registered under the Act, which indirectly will augment their market value.

What is the benefit for patients ?

- Patients will be provided improved quality of health-care and patient safety will be ensured through compliance to Minimum standards, Standard Treatment Guidelines and preventing unqualified persons from running Clinical Establishments.
- Better management of Emergency medical conditions.
- Details of charges, facilities available would be prominently displayed at a conspicuous place at each

establishment so clinical establishments will not charge exorbitantly as is happening in many cases currently.

- Patients are assured of proper health-care by Clinical Establishment registered under the Act.

21. We once again impress upon the State Government to look into this issue and see to it that the State of Gujarat also adopts the Act 2010 by passing an appropriate resolution to that effect in its Legislature and thereafter frame appropriate rules.

22. Since decades, the unorganized health sector has created major hurdles in the availability, accessibility and affordability of health-care to the common people. This Act would prove handy, as this would ensure the minimum standards to all the establishments providing health-care services. The mandatory registration of all types of health-care provisions will reduce quackery. There will be standardization of infrastructure, man power and working systems.

23. The pressure from the private health-care providers who deliver the bulk of the health-care may create hindrances in the way of the State Government in the implementation of the Act 2010. The push back, if any, from the private health-care should not deter the State Government in implementing and adopting the Act 2010 at the earliest in the larger interest of the people.

24. We expect the State Government to make an appropriate statement by the next date of hearing as regards adopting the Act 2010.

25). Before closing this order, we may only observe that it is extremely sad and shocking to know that there are 5199 schools in the State of Gujarat not possessing a valid and subsisting No Objection Certificate with regard to the Fire Prevention and Protection Systems. How is this permissible?. How can one play with the innocent lives of the students studying in such schools. If no steps are taken in this direction at the earliest, then this Court may be compelled to ask the State Government to cancel the recognition of such schools..

26) Fire safety in schools is often a neglected element in many Indian schools and there are no rules that are set in place for checking this aspect. The government does not enforce fire safety and most schools still function without even the basic safety amenities.

27) Schools must step up and take the responsibility to ensure that all possible safety precautions are maintained. School fire safety is important for the simple reason that a large number of children are gathered at one place and a single fire can affect all of them. Most of the furniture in a class room such as chairs, tables and desks are made from wood and these can easily catch fire. The chemistry lab which contains large quantities of flammable liquids is especially at risk. A fire in such places can go out of control and thus, fire safety in schools has become an extremely important issue. An uncontrolled fire can cause not just property damage but also huge loss in life. In case schools have a canteen, this usually involves dealing with large containers of LPG and accidents with these can lead to fire breakouts as well. This situation

must also be monitored regularly to ensure fire safety in schools.

28) Every school must take the necessary precautions in order to prevent anything untoward from happening in the case of an emergency, like a fire. Every floor must have a fire extinguisher or at the very least sand banks must be set in place. These can be used to contain the fire before it spreads. Teachers and non-teaching staff such as peons and other helpers must be instructed in the use of fire extinguishers. This is of primary importance. The school must have a particular method set in place for emergency evacuation of students and drills must be conducted on a frequent basis. This will ensure that students know who to reach in case of an emergency. The school must be in contact with emergency services like the fire and rescue department and ensure that they respond as soon as possible in case of an emergency. Fire alarms are expensive, however they are a necessary investment and these may well save many lives in case of any crisis. Fire alarms must be placed at strategic points and they must be checked regularly. Schools are entirely responsible for the safety of their children and they cannot expect the government to install any fire safety provisions. Government enforcement of fire safety in schools in India is deficient and the schools must take it up into their own hands to do the necessary actions.

29) The State Government, in furtherance of Articles 21 and 21A respectively of the Constitution of India, whereby the rights of life and liberty and education have been guaranteed

to all school going children is committed to ensure safe conditions within the premises of all the Government and private schools in the State of Gujarat.

30) Whereas to achieve the objective set forth in the Right of Children to Free and Compulsory Education Act, 2009 and in compliance of the direction issued by the Apex Court in the Writ Petition (Civil) No. 483 of 2004 titled as ***Avinash Mehrotra v/s Union of India & others***, the Haryana State Government has notified a State Policy on the “Safety Measures in Government and Private Aided & Un-aided Schools” situate in the State of Haryana.

31) All Government and Private Aided & Un-aided Schools situate in Haryana have been directed to put in place the following minimum safety standards, in addition to those enshrined in the National Building Code of India, 2005, in particular Part IV – Fire & Life Safety and Code of Practice of Fire Safety in Educational Institutions (IS 14435:1997) of the Bureau of Indian Standards, which are enumerated hereinbelow-

“1. DISTRICT EDUCATION COMMITTEE

a) Each District in the State shall have a District Education (Safety Measures in Schools) Committee under the chairpersonship of the Deputy Commissioner with the District Education Officer as the Member Secretary and District Elementary Education Officer as the Additional Member Secretary. The other members shall be Fire Station Officer, Civil Surgeon, Superintending Engineer or his nominee, Executive Officer of Municipal Council, District Town Planner and

two representatives of Private Schools and any other person as the Deputy Commissioner may deem fit.

b) The District Education (Safety Measures in Schools) Committee will be responsible for carrying out the objectives set forth in this policy and ensure compliance of all the conditions mentioned herein, in letter & spirit.

c) The District Education (Safety Measures in Schools) Committee will periodically carry out awareness campaign among the students and teachers and prepare publicity material pertaining to prevention & control of outbreak of fire and other similar calamities for distribution in the area. Expenditure to be incurred for this purpose will be provided in the annual budget of Education Department, and kept at the disposal of Member Secretary.

d) The District Education (Safety Measures in Schools) Committee will ensure that all the new schools in the district have a duly certified building plan and Structural Stability Certificate from a Government certified engineer. All the existing schools will also be required to take appropriate steps to render the school buildings safe for the students, and obtain a certificate from the relevant authority within a period of one year.

e) The District Education (Safety Measures in Schools) Committee will take steps to get the schools inspected at regular intervals for ensuring the adherence to the school building specifications as envisaged in the National Building Code of India, 2005 and other connected provisions as enumerated herein. Expenditure to be incurred, if any, should be demanded from the Education Department in respect of Government Schools and from private Management in respect of private schools.

2. FIRE SAFETY MEASURES

a) Fire Extinguishers of ISI mark of adequate capacity and numbers should be provided in eye-catching spots in the school building. Fire Extinguishers are to be

installed in all Government, Private aided and un-aided schools immediately.

In Government Schools, fire extinguishers will be purchased from funds available in the school itself i.e. Child Welfare Fund/ Health Fund /Building Fund etc. Till the time such fire extinguishers are purchased and installed, sufficient number of metal buckets filled with sand and water will be immediately installed in eye-catching spots of the school building.

b) First Aid Kits will be kept in schools to meet out any eventuality. A list of items to be kept in the First Aid Kit is appended herewith as 'A'.

c) Emergency telephone numbers and list of persons to be contacted in case of any eventuality shall be displayed on the notice board and other prominent places in the school premises.

d) Mock drills will be conducted regularly. Wherever possible fire alarm may be provided in those schools which have large infrastructure and science laboratories.

e) All electrical wiring and equipment will be got inspected and if found defective will be replaced with ISI mark equipments.

f) No High Tension Lines should run inside or over the premises of a school. Such lines, if existing, should be immediately shifted by bringing the matter to the notice of the District Education Committee.

3. TRAINING OF SCHOOL STAFF & STUDENTS

a) The State Council of Educational Research & Training (SCERT) will re-design the curriculum of in-service training for teachers so as to include inputs on Safety Measures for preventing and tackling outbreak of fire and other similar calamities.

b) The District Institutes of Education & Training (DIETs) will also likewise take steps to appropriately modify their curriculum for pre-service & in-service training for teachers.

c) Fire fighting training to all school staff and students from 6th to 12th standard will be imparted . They will also be trained in providing emergency first aid treatment. Training to handle fire safety equipments, emergency evacuation and protection in the event of fire and any other emergency would be arranged to be imparted through the Fire & Emergency Wing or any other agency as decided by the District Education Committee.

d) Emergency Response Mock Drills will be conducted at regular intervals to train the students and school staff.

e) Fire Safety Day will be observed every year on 14th April with awareness programs and fire safety drills in collaboration with the Fire & Emergency Wing or any other agency as decided by the District Education Committee.

*f) Special lectures on Safety Awareness will be conducted from
time to time.*

4. SCHOOL BUILDING SPECIFICATIONS

a) All new School Buildings shall preferably be an “A” class construction with brick/stone masonry walls with RCC roofing. However, where it is not possible to provide RCC roofing only non-combustible fire proof heat resistance material should be used. However, appropriate steps will be taken to ensure that all old school buildings are adequately repaired to render them safe for the students.

b) Nursery and Elementary Schools shall be housed in single- storied buildings. The maximum number of floors in High & Senior Secondary School buildings, as far as possible, will be restricted to three including the ground

floor.

c) The school building shall be kept free from inflammable and toxic material which, if necessary, shall be stored away from the school building.

d) The staircases, exits or escape routes, shall adhere to the provisions specified in the National Building Code of India-2005 to ensure quick evacuation or dispersal of children.

e) The orientation of the buildings shall be in such a manner that proper air circulation and natural lighting is available with open space all around the building as far as possible.

f) Existing school buildings shall be provided with additional doors in the main entrances as well as the class rooms, if required. The size of the main exit and class room doors should be enlarged, if found inadequate.

g) School buildings and students should be insured against fire and natural calamities with an Insurance company.

h) Kitchen and other activities involving use of fire should be carried out in a secure and safe location away from the main school building.

i) Provision of water tank and separate piping from the tank with hose reel to the ground floor and first floor will be made.

5. CLEARANCES AND CERTIFICATES

a) Every school shall have to furnish an NOC from the Fire & Emergency Wing or any other agency to be authorized by the District Education Committee in this behalf as a mandatory requirement for granting permission for establishing or continuation of a school

and granting permanent recognition.

b) Periodical inspection would be mandatory for all Government and Private Aided and Un-aided Schools as may be decided by the District Education Committee.

c) All the new schools in the district shall have a duly certified building plan and Structural Stability Certificate from a Government certified engineer. However, all the old existing schools shall be required to take appropriate steps to render the school buildings safe for the students.

6. MISCELLANEOUS

a) The Heads of the Institutions and the President of the Management Committee shall be accountable for any lapse whatsoever under the State Policy.

b) The District Education (Safety Measures in Schools) Committee shall take all appropriate steps as deemed necessary to monitor the adherence to the safety measures as enumerated herein by all the Government and Private Schools functioning under their jurisdiction.

c) The institutional heads of all the Government Schools in the State may assess their financial requirement as per the provisions of this policy and raise demand through the District Education Officer or District Elementary Education Officer as the case may be so that the requisite funds are released by the HQ.

d) Any dereliction in the discharge of obligations as enumerated hereinabove will attract immediate action as per law against the concerned institutional heads and the management of the private schools as the case may be."

32) We have cited the instance of State of Haryana so that the Government of Gujarat may also appropriately consider to frame and implement such regulations in the larger interest of the students, teachers and other staff members. The State of

Gujarat should also consider prescribing such minimum safety standards, as referred to above.

33) The directions issued by this Court vide order dated 15th December, 2020 shall continue to operate and the newly impleaded Corporations shall also start implementing all such directions at the earliest and file an appropriate reply in that regard by the next date of hearing.

34) For the present, we are not inclined to implead the Ahmedabad Hospital & Nursing Home Association (AHNHA). Although it is the stance of the Association that they would like to be impleaded so that they may assist this Court in this important public interest litigation, yet, prima facie, we have gathered an impression that they are here before this Court only to protect all such hospitals who do not have a valid NOC and against whom the Corporation has already started taking action by affixing seals on such hospitals.

35) Post this matter for further hearing on 16th April, 2021.

(J. B. PARDIWALA, J)

(ILESH J. VORA, J)

Vahid