

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 (FOR JOINING PARTY) NO. 2 of 2020****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****With****R/SPECIAL CIVIL APPLICATION NO. 9506 of 2021****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. 12,13,14,15****MR KAMAL TRIVEDI, ADVOCATE GENERAL WITH MS MANISHA****LAVKUMAR, GOVERNMENT PLEADER WITH MR VINAY BEROGRA, AGP****(1) for the Opponent(s) No. 1,2****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 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 THE CHIEF JUSTICE MR. JUSTICE
ARAVIND KUMAR**and****HONOURABLE MR. JUSTICE ASHUTOSH J. SHASTRI****Date : 29/11/2021****ORAL ORDER****(PER : HONOURABLE THE CHIEF JUSTICE MR. JUSTICE ARAVIND KUMAR)**

1. In this matter, the petitioner has espoused the cause of several buildings across the State like commercial buildings, schools, hospitals and other residential-cum-commercial

buildings not having requisite permission as contemplated under the Gujarat Fire Prevention and Life Safety Measures Act and also Building Use Permission (for short "BUP") as contemplated under the Gujarat Town Planning and Urban Development Act, 1976.

2. In this petition, several orders have been passed pursuant to which affidavits and counter/reply/rejoinder affidavits have been filed.

3. In our order dated 18.11.2021, we had directed the State to place on record by way of a chart narrating as to how the issue that has been dealt with in the order dated 17.8.2020, 15.12.2020 and 26.2.2021 came to be addressed and as to how the said issues would be tackled in a phased manner by explaining short term and long term plan proposed or envisaged so as to ensure that sufficient safeguards are taken to prevent any untoward incident which may cost precious life of a citizen and to ensure that on account of lapses on the part of officials by enforcing the provisions of the Act the life of citizen is not at peril.

4. The petitioner who is the learned member of this Bar

and espousing the aforesaid noble cause has brought to our notice that report published in Ahmedabad Mirror dated 29.11.2021 whereunder it is reported that a major fire ripped through a commercial high rise building on S.G.Highway on 28.11.2021 at about 5.15 p.m. in which one person suffered serious injury after jumping from the second floor of the building, namely, an adolescent is said to have jumped from the second storey of the high rise building in panic and is said to have been treated at GMERS, Sola MCH. It is also reported that several people were rescued in the said fire including a learned member of this Bar who is said to be occupant of the said building. Highlighting this aspect, petitioner would contend that several such incidents are occurring day in and day out in the State of Gujarat and his only endeavor is to see that such incidents do not recur or in other words none of the citizens are driven to such a situation.

5. Having regard to the fact that affidavits filed before this Court as also the affidavit which has been filed before the Hon'ble Supreme Court (with reference to nagarpalikas) and referring to the affidavit dated 6.10.2021 filed by Mr. R.H.Vasava, Joint Secretary, Urban Development and Urban Housing

Department, it has been stated thereunder that an extensive survey of buildings without "Building Use Permission" was carried out and it revealed that on an average, 48% of hospitals in the State do not have a valid BUP. It is an undisputed fact that under Regulation 3.8.1 of GDCR, it would be mandatory on the part of builder/society or owner of the building to obtain a BUP from the competent authority prior to occupancy or use of the said building. Regulation 3.10.1 of GDCR empowers the authorities to take action against such of those unauthorized buildings or unsafe buildings.

6. In the light of fire incident that occurred on 28.11.2021 which has been noticed by us hereinabove, we are of the view that it is high time that authorities would take immediate steps atleast in respect of high rise buildings which is lacking non-compliance of either fire certification or BUP, inasmuch as any tears shed by the State and its authorities subsequent to untoward incident occurring would be of no avail, inasmuch as the precious life lost cannot be brought back. As such, the principle of "**prevention being better than cure**", it would be apt and appropriate that authorities would atleast take immediate steps in respect of such high rise buildings in the

State which do not possess BU permission at all, namely, it is constructed contrary to building bye-laws or contrary to approved building plan where even fire engines or the fire fighting equipments or the personnel from the Fire Department would not have access to put down the fire in the event of any such untoward incident were to occur. Taking drastic steps including atleast sealing of those buildings would be a succor and precious life of people would be saved. We hope and trust that the State and its machinery would leave no stone unturned in taking aforesaid effective steps and in the meanwhile, we direct all Nagarpalikas and all Municipal Corporations to place on record by the next date of hearing of such steps taken specifying the number of buildings that has been constructed without any permission whatsoever to enable this Court to pass further orders.

7. Relist these matters on 23.12.2021.

(ARAVIND KUMAR,CJ)

(ASHUTOSH J. SHASTRI, J)

RADHAKRISHNAN K.V.