

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. 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

LUVKUMAR SHAH, GOVERNMENT PLEADER WITH MR. VINAY

BAIRAGRA, AGP 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 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 : 14/06/2022

ORAL ORDER

(PER : HONOURABLE THE CHIEF JUSTICE MR. JUSTICE ARAVIND KUMAR)

[1] Perused the affidavit dated 10.06.2022 of Shri Jayesh N. Khadia, In-charge Chief Fire Officer, Ahmedabad Fire and Emergency Service, which would disclose that 1128 Residential Buildings, 259 Residential-cum-Commercial and 26 Commercial Buildings do not have valid fire NOC as on 09.06.2022.

[2] Shri Mihir Joshi, learned senior counsel appearing on behalf of the fourth respondent would submit that initiation of criminal prosecution against the erring persons has yielded positive results of reporting due compliance, namely, such of those societies, buildings which did not possess the fire NOC are now obtaining/getting the fire NOC and who had already obtained NOC and had not renewed are now taking steps for renewal. However, this Court is of the considered view that mere initiation of the criminal prosecution or taking action by initiating any other proceedings other than not sealing the premises would not yield immediate results. He does not dispute the fact that power being available to the AMC to seal the buildings for any inadequacies found, particularly, when 26 Commercial Buildings are without fire NOC, it is high time that AMC should not only initiate appropriate proceedings but also takes steps to seal such of those buildings which do not possess

fire NOC inasmuch as a mishap or a fire accident should not result in any untoward incidents of the lives of the occupants being in danger. Hence, it would be most appropriate for the AMC to prevent such incidents rather than repenting after such incidents occurring. Same would squarely apply even to Residential-cum-Commercial buildings as well as Residential Buildings. We do hope and trust that in another two weeks, certain concrete steps would be taken by the AMC and additional affidavit would be filed in respect of at least these three categories of buildings by indicating the nature of steps taken and the results obtained thereof. Hence, we grant two weeks time to the AMC to report the same. In the light of the communication dated 12.04.2022 addressed by the AMC to the Chief Metropolitan Magistrate, we do hope and trust that the CMM would take appropriate steps on the said representation.

[3] Pursuant to our order dated 04.04.2022, the Joint Secretary, Urban Development and Urban Housing Department, State of Gujarat has filed an affidavit indicating thereunder that the sample survey of buildings to assess the nature of building use, violation of building bye-laws was undertaken in the Nagarpalika areas of the State and the said sample survey size

was 2160 buildings i.e. Commercial, Residential High-Rise Buildings, out of which, 1833 buildings have been found without Building Use Permission i.e. around 84.86% of the buildings being without BU permission. It is also stated that major instances of violations of building bye-laws also emerged and it is stated that State Government is now in the process of carefully studying all the data available from the said surveys to take remedial measures. In the light of the percentage of building without being BU permission being alarming, namely, 84.86% the State Government would be required to come with an action plan or proposed remedial measures both in the interest of the citizens as well as in the interest of the State and indicate the steps taken in that regard shall be placed before this Court within five weeks from today.

[4] As regards the buildings where Governments Schools and Colleges are located, it is stated to the following effect:-

Sr. No.	Description in terms of total number of Schools	No. of Schools in Municipality Areas	No. of Schools in Municipal Corporation Areas	No. of Schools in Rural Areas
1.	1362 Government Schools	73	19	1270
2.	78 Government Colleges	10	19	49

[5] Out of the above referred number of Schools, certain Schools in Municipality areas and Municipal Corporation areas are said to be not possessing with fire NOC, the details whereof are furnished in paragraphs No. 3.2 (i) to (iii) and it reads thus:-

"3.2(i) Out of 73 Government Schools located in Municipality Areas, 4 Government Schools are not having valid fire NOC. Whereas, out of 10 Government Colleges located in Municipality Areas, 5 Government Colleges are without fire NOC, which have been directed by Education Department to be equipped with fire NOC within a period of two months from today, failing which the same may have to be closed down.

(ii) Out of 19 Government Schools located in Municipal Corporation Areas, 7 Government Schools are not having valid fire NOC. Whereas, out of 19 Government Colleges located in Municipal Corporation Areas, 17 Government Colleges are not having valid fire NOC. Similar directions to the said 7 Government Schools and 17 Government Colleges have also been issued in the matter of compliance of fire NOC.

(iii) Out of 1270 Government Schools located in Rural Areas of the State, 3 Government Schools are not having valid fire NOC. Whereas, out of 49 Government Colleges located in Rural Areas, 12 Government Colleges are not having valid fire NOC. The said 3 Government Schools as well as 12 Government Colleges have also been issued similar directions in the matter of compliance of fire NOC."

[6] Thus, it would emerge from the above statistics that four Government Schools are not having valid fire NOC. Likewise, five Government Colleges are also without fire NOC, which are located in municipality areas, whereas seven Government Schools and 17 Government Colleges in Municipal Corporation areas are not having valid fire NOC. The State is said to have directed the Education Department to be complaint with regard to fire NOC within a period of two months and directions are also said to have been issued. The Schools and Colleges are the places where post COVID, students have been attending the classes and Schools physically and as such these Colleges and schools should necessarily possess valid fire NOC as otherwise, the State would be putting the life of such students attending the Colleges or Schools, as the case may be, at risk. Hence, the State Government is directed to take appropriate steps to ensure that such of those Schools and Colleges where fire NOC is lacking would fall within the category of compliance category.

[7] The concerned officials of Surat Municipal Corporation and Bhavnagar Municipal Corporation have also filed their affidavits indicating the number of buildings which are non-compliant. The directions issued hereinabove would be

squarely be applicable to the Surat Municipal Corporation and Bhavnagar Municipal Corporation also. Hence, for the purpose of considering the steps taken by the AMC with regard to the order passed hereinabove and for consideration of further affidavits to be filed by AMC, Surat Municipal Corporation and Bhavnagar Municipal Corporation, we direct the Registry to list this matter on **30.06.2022**.

(ARAVIND KUMAR, C.J.)

(ASHUTOSH J. SHASTRI, J.)

DHARMENDRA KUMAR