

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. 2 of 2022
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

=====
AMIT MANILAL PANCHAL

Versus

STATE OF GUJARAT

=====
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

=====

CORAM: **HONOURABLE THE CHIEF JUSTICE MR. JUSTICE
ARAVIND KUMAR**
and
HONOURABLE MR. JUSTICE ASHUTOSH J. SHASTRI

Date : 30/06/2022

ORAL ORDER

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

[1] This Court by order dated 15.12.2020 had passed certain interim directions in the background of the fire accidents occurring in highrise buildings thereby putting the lives of the citizens under high risk. One of the directions, which came to be issued can be traced to paragraph 14 and it reads as under:-

"(14) The respondents are directed to ensure for the hospitals, especially for the Intensive Care Units (ICUs), the following :

a. Use of the Fire Retardant Material for the curtains, bedsheets, ceiling and wall claddings;

b. Servicing of Ventilators once a month;

c. Servicing of Air Conditioners once a month;

d. Use of Earth Leakage Circuit Breaker (ELCB) and Miniature Circuit Breaker (MCB) for electrical wiring;

e. Servicing of Electrical Points inside the ICU once a month;

f. Whole of the ICU should have sprinkler system installed and the system should be serviced once a month;

g. ICU should preferably be located only on the Ground Floor and have alternate Exits wide enough to roll the beds out in the event of necessity;

h. Ventilators and Filters shall be installed at the Ground Level and Fresh Air to be inducted from Terrace Level;

i. Amber Yellow Emergency Lights with Auto Starting Sensor/System;

j. Glass facades to be removed forthwith and staircases shall be fully ventilated above the parapet wall;

k. Glass facades of the hospital buildings should not be permitted in any event;"

[2] The above directions were issued for ensuring that the hospitals, especially the Intensive Care Units (ICUs) would take all reasonable steps including the ones run by the Municipal Corporation to mitigate the hardship in case of fire in such buildings. In fact, this Court had observed and specifically directed that wherever glass facades have been installed in any building has to be removed forthwith and staircases should be fully ventilated above the parapet wall for ensuring the building is not engulfed in smoke in case of fire and thereby prevent choking due to the smoke. The authorities were also directed that glass facades of the hospital buildings should not be permitted in any event. Having said so on the issue of accountability, the co-ordinate Bench had held clearly that certain officers should be fixed with the accountability in case of mishaps by observing thus:

"24. Subject to what the respondents have to say with regard to fixing the accountability, we propose to fix the accountability as under :

<i>Accountability</i>		
<i>Sr. No.</i>	<i>Particular</i>	<i>Person Responsible</i>
1.	<i>Occupation without B.U. Permission</i>	<i>Owner/Builder/ Developer</i>
2.	<i>Expired NOC/ No NOC</i>	<i>Occupant/Owner/Chief Fire Officer</i>
3.	<i>Accountability for illegal action or inaction by the Authority</i>	<i>i. Municipal Commissioner</i> <i>ii. Deputy Municipal Commissioner (Estate Department)</i> <i>iii. Deputy Municipal Commissioner in-charge of the concerned Department.</i> <i>iv. Chief Fire Officer</i>

[3] In fact, it was observed that ICU should be preferably located only on the Ground Floor and they should have alternative exits wide enough to roll the beds out in the event of necessity.

[4] An unfortunate incident of fire accident at Dev Complex at Ahmedabad took place on 25.06.2022 in the forenoon, in which building four hospitals and other commercial establishments are located.

[5] Shir Amit M. Panchal - party-in-person - applicant has drawn the attention of the Court to the photographs produced along with Civil Application No. 2 of 2022 to contend that not only the direction issued on 15.12.2020 has been violated but also no steps have been taken across the State in respect of such of those buildings who are not complying with the directions issued by this Court. It is no doubt true that in the unfortunate fire incident took place on 25.06.2022 no untoward incident of death occurred on account of timely intervention of the fire personnel and other agencies associated with them who took timely steps and rescued those persons who are struck in the building. In fact, photographs produced by the applicant would indicate that even small infants have been virtually lifted from the Neo-natal Unit to the nearby hospitals. For ensuring that smoke is vented out the fire personnel had to break down the window panes and nearly about 60 officers and personnel with about 17 vehicles and other firefighting equipments were stationed for rescue operation. In fact, the newspaper reports would indicate that firefighting continued till 4:00 p.m. and the fact that due to smoke the visibility was very low resulted in hindrance to the rescue operation.

[6] We call upon the State as well as the AMC to file a report in this regard so as to enable this Court to pass appropriate orders or directions in that regard. In the meanwhile, the State is directed to take immediate steps for ensuring the compliance of the order dated 15.12.2020 and the AMC is also directed to state in its report as to on whom the responsibility is fixed or the accountability is attributed for the fire accident in question. It is not only the steps which would be taken after such accidents occurred but also the preventive steps which would be taken would be of utmost importance. These accidents are occurring due to either there being no proper compliance to the statutory requirements as required under the Gujarat Fire Prevention and Life Safety Measures Act, 2013 or the unwillingness of the authorities to implement the Act in its true spirit. It is no doubt true that fire personnel who were engaged in rescue operation on 25.06.2022 are required to be appreciated for the timely intervention and timely action taken in ensuring the evacuation of more than 65 persons who were struck in the building and were unable to come out due to smoke that had engulfed. At the same time, preventing recurrence of such incident would be of paramount importance. Until and unless stringent and strict

action is taken against such of those buildings which do not have fire compliance, these incidents may occur in future and until and unless deterrent action is taken against such erring persons, such incidents would go unchecked in many a time. Hence, we direct the State and its instrumentalities to take immediate steps to seal such of those buildings which either not complying with the statutory requirement of the Fire Act, 2013 or which do not possess the B.U.Permission or there has been complete violation of the building plan or the buildings having been constructed in violation of the approved plans.

[7] We call upon the State including the Ahmedabad Municipal Corporation to furnish the report as noticed hereinabove with regard to fire incident which occurred on 25.06.2022 by the next date of hearing along with the reply, if any, to Civil Application No.2 of 2022.

[8] Shri Kamal Trivedi, learned Advocate General has brought to the notice of the Court that affidavit dated 24.02.2021 filed by the Deputy Secretary Urban Development and Urban Housing Department with regard to the steps taken by the State insofar as the Government Hospitals are concerned. It is no doubt true

paragraphs 9.9 and 9.10 of the affidavit would indicate the steps taken by the State to implement paragraph No.23.14 of this Court's order dated 15.12.2020, but the fact remains that private hospitals outnumber the Government Hospitals and there is no material on record which would suggest or indicate as to how the order passed by this Court on 15.12.2020 has been implemented. It is for this reason, we have opined hereinabove that AMC would also be required to place on record the report about the hospitals in the Ahmedabad city are concerned which are located in the highrise buildings as to how they have implemented the order dated 15.12.2020. The aforesaid direction would also hold good to other Municipal Corporations and Municipalities where such private hospitals may be located. The said report shall be filed within three weeks. Re-list on **22.07.2022**.

[9] The petitioner would be at liberty to implead the hospitals which is located in Dev Complex, Ahmedabad City . The AMC shall also state in its report as to what coercive steps have been taken against erring hospitals particularly in respect of the hospital where fire accident had occurred on 25.06.2022 in its report.

Order in Special Civil Application No.14157 of 2020:

The counsel for the applicant seeks leave of the Court to carry out correction in paragraph 16(P) of the proposed draft amendment. In line no.5, for the word applicant herein, to be deleted and substituted with the word respondent no.5. Permission granted. Amendment carried out. Accepted.

Having heard the learned Senior Counsel Shri R.R.Marshall appearing for the applicant, the draft amendment stands allowed. Petitioner is permitted to carry out the amendment, incorporating the additional paragraphs in the pleadings as well as incorporating the additional prayers as sought for in the proposed amendment. Permitted to file amended petition by next date of hearing. It is needless to state that respondents would be at liberty to file additional statement of objections if so advised.

Re-list this matter on **22.07.2022**.

(ARAVIND KUMAR, C.J.)

(ASHUTOSH J. SHASTRI, J.)

DHARMENDRA KUMAR