

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/WRIT PETITION (PIL) NO. 225 of 2016****With****CIVIL APPLICATION (FOR ORDERS) NO. 1 of 2023****In R/WRIT PETITION (PIL) NO. 225 of 2016****With****CIVIL APPLICATION (FOR ORDERS) NO. 1 of 2025****In R/WRIT PETITION (PIL) NO. 225 of 2016**=====

MANAV GARIMA**Versus****STATE OF GUJARAT & ORS.**
=====**Appearance:****MR PANKAJ P ZAMPADIA(13484) for the Applicant(s) No. 1****MR SUBRAMANIAM IYER(2104) for the Applicant(s) No. 1****G H VIRK, GP with Mr. Simranjit Virk, Adv. (7392) for the Opponent(s) No. 7****MS. HETAL PATEL, ASSISTANT GOVERNMENT PLEADER for the****Opponent(s) No. 1,4****MR. SHALIN MEHTA, SR. ADV. WITH MR. MAHARSHI PATEL FOR HL****PATEL ADVOCATES(2034) for the Opponent(s) No. 8**
=====**CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE****SUNITA AGARWAL****and****HONOURABLE MR. JUSTICE PRANAV TRIVEDI****Date : 05/03/2025****ORAL ORDER****(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL)**

Alongwith the affidavit dated 3rd March, 2025 filed by the In-charge Chief officer, Patdi Nagarpalika, it is brought on record that for the purpose of managing and maintenance of the drainage/manhole and the work of cleaning thereof, the Nagarpalika had engaged a contractor. The copy of the contract entered into with the contractor is appended as

Annexure R/2. A perusal whereof indicates that there was a categorical Clause-13 to state in the contract that the contractor would not engage any worker for the manual scavenging of manhole and in any case the direction of the Apex Court would be complied with to its true letter and spirit.

2. The stand of the in-charge Chief Officer of Patdi Nagarpalika is that as against the said categorical condition of the contract, the contractor had indulged into manual scavenging , which has resulted into loss of lives of two contract workers engaged by it. It is pointed out by the learned advocate for the petitioner that one of the contract workers engaged by the contractor who had died, was a minor. The further stand of the in-charge Chief Officer of the Nagarpalika in the affidavit is that for the wrongful action of the contractor, notices dated 22.01.2025 and 03.02.2025 had been issued calling upon the contractor to show cause as to why the contract be not terminated as per the Clause 31 of the contract and further the compensation paid to the family of the deceased by the Nagarpalika be not realised from him.

3. However, the fact remains that the Nagarpalika being the principal employer was required to daily supervise the working of the contractor.

The fact that the minor person had been engaged by the contractor is a serious matter and was required to be looked into by the principal employer. The principal employer is required to take stock of the workers engaged by the contractor and monthly payments of wages made to them. There is nothing on record in the affidavit of the in-charge Chief Officer of the Nagarpalika to demonstrate as to how the supervision of the work of the contractor was being carried out on the part of the principal employer, namely the Nagarpalika. The entire record pertaining to the workers engaged by the contractor placed before the Nagarpalika is, therefore, required to be looked into by the in-charge Chief officer who shall make an enquiry on his own to find out as to how and in what manner the contract work was being conducted by the contractor and whether the payment towards the due wages was being made or not. Relevant certificates of proof of age of each of the contract workers is required to be examined by the Chief Officer.

4. Apart from the above, it is pertinent to note that the relevant Clauses of the contract/agreement aligned the role of the Sanitary Inspector of the Nagarpalika being an officer in the supervising capacity of the day-to-day working of the contractor. The role of the Sanitary Inspector in the whole episode is required to be looked into. There is an

absolute silence about the action initiated by the Nagarpalika, if any, on coming to know of the incident wherein two contract workers had died during the manual scavenging. The ignorance shown on the part of the Chief officer, Patdi Nagarpalka cannot be appreciated.

5. Furthermore, apart from the initiation of action for termination of contract, no other penal action has been initiated at the ends of the Nagarpalika being the principal employer, against the contractor.

6. All these issues are to be answered by the Chief officer, Nagarpalika, Patdi. Learned senior advocate Mr. Shalin Mehta assisted by Mr. Maharshi Patel, the learned advocate appearing for the Nagarpalika prays and is granted three weeks' time to file proper affidavit of the Chief Officer of the Nagarpalika, Patdi who shall make an inquiry in accordance with the directions given hereinabove.

7. On the larger issue of curbing repeated instances of manual scavenging resulting into death of contract workers, a brain storming has to be done by the Commissioner of Municipality (Administration), who in our considered opinion, is required to hold a meeting with the officers of the local bodies namely the Municipal Commissioners, Chief Officers

of the Nagarpalikas and heads of the local governing bodies in the State to find out a permanent solution on the issues coming up to this Court from time to time.

8. Mr. G.H.Virk, the learned Government Pleader appearing for the State respondent, is required to communicate this order to the Municipal Commissioner to work out a permanent solution and to file his personal affidavit on the next date fixed.

Put up on 2nd April, 2025.

(SUNITA AGARWAL, CJ)

(PRANAV TRIVEDI,J)

C.M. JOSHI