

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/WRIT PETITION (PIL) NO. 43 of 2024****With****R/WRIT PETITION (PIL) NO. 50 of 2024**

=====

DHARINI SHAH & ORS.

Versus

STATE OF GUJARAT & ORS.

=====

Appearance in :**WPIL 43 OF 2024:**

MR MIHIR J. THAKORE, SR. ADVOCATE with MR SALIL M THAKORE(5821) for the Applicant(s) No. 1

for the Opponent(s) No. 1,4,5,6,7

MR KAMAL B. TRIVEDI, ADVOCATE GENERAL & SR. ADVOCATE with MR G H VIRK, GOVERNMENT PLEADER and MR HARDIK A DAVE, PUBLIC PROSECUTOR with MR. VINAY BAIRAGRA, AGP with MR SIMRANJIT H. VIRK (7392) for the Opponent(s) No. 1-2

MR HARNISH V DARJI(3705) for the Opponent(s) No. 3

WPIL 50 OF 2024:

MR PR ABHICHANDANI, ADVOCATE as AMICUS CURIA for the PETITIONERS

MR KAMAL B. TRIVEDI, ADVOCATE GENERAL & SR. ADVOCATE with MR G H VIRK, GOVERNMENT PLEADER and MR HARDIK A DAVE, PUBLIC PROSECUTOR with MR. VINAY BAIRAGRA, AGP with MR SIMRANJIT H. VIRK (7392) for the Opponent(s) No. 1

MR H.S. MUNSHAW, ADVOCATE for RESPONDENTS NO.5-6

MR MAULIK G. NANAVATI, ADVOCATE for M/s. NANAVATI & CO. for RESPONDENT NO.11

=====

**CORAM:HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
SUNITA AGARWAL**

and

HONOURABLE MR. JUSTICE PRANAV TRIVEDI**Date : 22/08/2024****ORAL ORDER****(PER : HONOURABLE THE CHIEF JUSTICE
MRS. JUSTICE SUNITA AGARWAL)**

1. These petitions in the nature of Public Interest Litigation has been registered as a suo motu PIL in view of the order dated 07.08.2024 passed by us, wherein issues pertaining to the management of traffic in the city of Ahmedabad and filling up vacancies in the establishment of Traffic Police apart from the issues of poor and inadequate road infrastructure have been highlighted.
2. Mr. P.R. Abichandani, learned Amicus has invited attention of the Court to the judgment and order dated 11.05.2018 passed by this Court in Public Interest Litigation, viz. WPPIL No. 170 of 2017 wherein this Court was dealing with the issues pertaining to repair/restoration of public roads/streets so as to ensure the safety and well-being of the commuters. The main reason contributing the poor conditions of public roads and streets; potholes on the roads and traffic problems noted by the Bench, as placed before us are :-
 - "a) There is no proper survey with respect to the damaged roads. There is lack of inspection and supervision by the concerned officers of the respective Zones.
 - b) No monitoring of the work done.
 - c) No quality control, no checks and balances.
 - d) No action/ penalty/ punishment taken against the erring officers for not performing their duties as provided in the Manual.
 - e) No liability or accountability of the contractor/contractors for bad condition of roads.

- f) Contractors are paid their money.
- g) No inspection and/or monitoring with respect to the quality control and to check whether the roads are constructed/resurfaced as per the quality required, or not.
- h) There is no checking whether the required material is used or not.
- i) Non-finalization of the Town Planning Schemes more particularly with respect to the areas which are subsequently included in the territorial jurisdiction of the Ahmedabad Municipal Corporation.
- j) No inspection or supervision and/or monitoring of the roads after the permissions are granted for digging of the roads for the purpose of laying cable, pipelines, etc. by electricity company, telephone companies and other companies providing water, gas, sewerage facilities etc. and there is a lack of supervision and monitoring whether after digging permissions are granted and the roads are dug thereafter the roads are restored to their original good condition or not.
- k) Poor maintenance of service roads and the service roads are virtually converted into parking spaces by shopping centers, restaurants, clubs, hospitals, educational institutions, commercial complexes, malls, religious places, parks, theaters, Government and Corporate buildings/ offices etc. and no effective steps are taken to remove the encroachment from the public roads.
- l) There is no proper or detailed survey by expert bodies on monitoring and/or supervision of the public roads, traffic problems, etc.
- m) Lack of will and/or commitment in performing duties by the concerned employees/ officers of the local bodies."

3. It was placed before us that directions have been issued with respect to the specific issue pertaining to traffic problems faced by the citizens/residents of the city in the following manner:-

"29...

(10) Now so far as traffic problem faced by the citizens/ residents of the city is concerned, it is directed that there shall be a proper study conducted by the State Government and the Corporation. There shall be an indepth study of the traffic problem, more particularly, congestion of traffic and the bottlenecks in smooth movement of traffic is required to be studied and found out so that further corrective measures can be taken. In many cases, important junctions are required to be redesigned using inhouse expertise or with the help of external experts to bring out the solution relating to the problem of traffic. The Traffic Engineering Department of the Corporation therefore shall extend complete cooperation to the Traffic Police Department to ensure smooth movement of traffic at all important junctions in the city. If required, important junctions shall be redesigned using in-house expertise or with the help of external experts to bring out the solutions of the problems related to traffic and for which there shall be an expert opinion of the Committee consisting of experts.

(11) That the teams of the Estate Department shall ensure removal of all types of encroachment on roads which are obstructing free movement of vehicles as well as pedestrian movement. Footpaths and service roads are meant for smooth movement of traffic and pedestrians. Therefore, the Estate Department of the Corporation and the Traffic Police Department are hereby directed to ensure removal of all types of encroachments on roads/service roads which are obstructing free

movement of vehicular traffic. The concerned Departments of the State Government as well as the Corporation, more particularly, the Traffic Police Department and the Estate Department and the Commissioner of Police, Ahmedabad City, are directed to see that the vehicles are not parked on roads/ service roads surrounding the shopping centers, restaurants, clubs, hospitals, educational institutions, commercial/office complexes, malls, religious places, parks, theaters, Party-Plots etc. and they shall see to it that the vehicles of people visiting such places are parked in the Parking place in such buildings itself and that the roads/ service roads situated in front of or abutting such shopping centers, restaurants, clubs, hospitals, educational institutions, commercial/office complexes, malls, religious places, parks, theaters, Party-Plots etc. are not converted into their permanent parking place. Therefore, the concerned Departments shall first serve notice/notices upon the management/owners/proprietors/trust etc. of the concerned shopping centers, restaurants, clubs, hospitals, educational institutions, commercial/office complexes, malls, religious places, parks, theaters, Party-Plots etc. which are having their buildings abutting the roads/service roads with a specific mention that if any of the visitors to such places park their vehicles on road, it will be the responsibility of the concerned management/ owners/ proprietors/trust etc. to see to it that vehicles are not parked on public roads/ service roads.

(12) The teams of the Estate Department of the Corporation shall also ensure that adequate parking spaces are provided at the time of issuing Building Use Permissions as per the GDCR. Correspondingly, it shall be ensured by timely inspections that the allocated parking spaces in the structures are not encroached after the issuance of Building Use Permissions.

(13) Strict action shall be taken against those who

park their vehicles on public roads, more particularly, in "No Parking Zone". No parking shall be allowed, at least on crossroads/ junctions. If ultimately, the parking is found on cross-roads and No Parking Zones, the concerned Police Officer on duty at the particular point shall be held personally responsible for allowing such parking for which such officer shall be liable for disciplinary proceedings for dereliction in duty, etc.

(14) The speed breakers/ bumps on the roads shall be constructed as per the design and size as per the rules and regulations of the Indian Road Congress as far as possible however, subject to the requirements and need.

(15) The Commissioner of Police (Traffic) and the Commissioner, Ahmedabad Municipal Corporation are directed to see that the aforesaid directions are complied with in its true spirit.

(16) Comprehensive Mobility Plan for Gujarat metros shall have to be prepared by the Government of Gujarat as per Ministry of Urban Development Guidelines.

(17) To ensure safe and smooth mobility in the city, the Mantra of "E-E-E", that is:

- * Engineering,
- * Education of People and
- * Enforcement of laws,

has to be followed.

(18) There shall be coordination between different Departments of the Government and there shall be periodical high level joint committee meetings once in a month to ensure appropriate solutions to the problems."

4. Further, direction was issued to set-up a permanent Grievance Redressal Cell and registration of on-line

complaints and toll-free numbers for which periodical publicity be made so that the citizens are aware of such facilities and can make their grievances which shall be attended by the concerned Department at the earliest.

5. It was further noted by this Court that there is a corresponding duty of the citizens and residents of the city to follow the law and traffic regulations so as to make their city a Smart City and/or Metro City. In order to educate, media, both electronic and print, would be the most effective medium. Therefore, all must collectively make effort to solve the issue and make the city of Ahmedabad a Smart City in its true sense. All concerned respondents/departments were directed to submit periodical compliance reports on the aforesaid directions bi-monthly on the record of the said case, to be placed before the Court.
6. During the course of further hearing, the submission was made by the learned Senior counsel appearing for the Ahmedabad Municipal Corporation that effective steps have been taken to implement the directions issued by this Court and there is a lot of improvement because of the teamwork done jointly by the Traffic Department as well as the Officers of the Ahmedabad Municipal Corporation and that because of various steps taken to deal with the traffic issues and the encroachments being removed, approximately 30% to 40% time of the common people on the road is saved.
7. The Writ petition was accordingly disposed of with the

direction that the concerned respondents shall continue to take such steps. Reiterating the directions issued in the order dated 11.05.2018, on the assurance given by the learned Senior advocate appearing for the Ahmedabad Municipal Corporation and the learned Government Pleader for the State respondents as well as the Traffic Department, the Writ petition has been disposed of with the directions to all, including the Commissioner, Ahmedabad Municipal Corporation, for taking necessary steps, considering the interest of the citizen of the Ahmedabad city, so as to make the city in real sense a Smart city, clean city and heritage city.

8. The submission of Mr. P.R. Abhichandani, learned Amicus is that the situation has worsened rather than improving and all the above directions issued by this Court and the assurance given by the respondents went in vain. There are larger issues of serious concern, which can be compartmentalised in the following areas:-

- (1) The issue pertaining to the finance and budgeting for the roads falling in the City area where there are overlapping in the matter of management between the State and National Highway Authority of India.

- (2) There is a requirement of an expert body being employed to conduct a comprehensive study of the available road infrastructure and the requirement keeping in mind of the future needs.

(3) A study into the design, quality, safety of the existing road infrastructure.

(4) Recruitment and training of the adequate manpower and their deployment at appropriate places.

(5) Strict implementation of traffic rules by taking adequate prohibitory measures and conducting traffic awareness drive.

(6) Requirement to appoint Nodal officers for synchronized inter-departmental communications.

9. It was contended that the main concern of the Court in the present Public Interest Litigation is about the safety of the denizens of the City and adopting appropriate measures for smoother functioning of the traffic. The expert body must include persons from diverse fields, including some eminent citizens as the issues raised touch lives of one and all.
10. In any case, road infrastructure needs to be upgraded to match with the ever-increasing vehicular traffic. Higher penalty should be set in place as deterrent measure and a method should be devised to suspend the license of the repeated offenders, linking the same to the registration and insurance policy of the vehicle. Sensitisation and awareness programmes are need of the hour.
11. In reply to all these submissions, Mr. Kamal B. Trivedi, learned Senior counsel appearing for the Ahmedabad

Municipal Corporation would pray and is granted time to bring the stand of the Corporation before us.

As prayed, put up on 06.09.2024 at 1.00 PM.

(SUNITA AGARWAL, CJ)

(PRANAV TRIVEDI,J)

BIJOY B. PILLAI