

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****CIVIL APPLICATION (DIRECTION) NO. 1 of 2024****In R/WRIT PETITION (PIL) NO. 118 of 2020****With****R/WRIT PETITION (PIL) NO. 34 of 2024****With****CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2024****In R/WRIT PETITION (PIL) NO. 34 of 2024**

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AMIT MANILAL PANCHAL

Versus

STATE OF GUJARAT &amp; ORS.

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Appearance:

PARTY IN PERSON(5000) for the PETITIONER(s) No. 1

G H VIRK(7392) for the RESPONDENT(s) No. 3

SHRI KAMAL TRIVEDI, ADVOCATE GENERAL WITH MS. MANISHA

LAVKUMAR SHAH, ADDITIONAL ADVOCATE GENERAL WITH VINAY

BAIRAGRA, ASSISTANT GOVERNMENT PLEADER for the

RESPONDENT(s) No. 1,2

MR CHINMAY M GANDHI(3979) for the RESPONDENT(s) No. 10

MR DHAVAL G NANAVALI(2578) for the RESPONDENT(s) No. 11,7

MR HS MUNSHAW(495) for the RESPONDENT(s) No. 10,5,6,8,9

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CORAM:**HONOURABLE MR. JUSTICE BIREN VAISHNAV**

and

**HONOURABLE MR. JUSTICE DEVAN M. DESAI**

Date : 06/06/2024

IA ORDER

(PER : HONOURABLE MR. JUSTICE BIREN VAISHNAV)

1 Pursuant to the order dated 27.05.2024 passed in these proceedings, affidavits have been filed by the incumbent Municipal Commissioner as well as the Municipal Commissioners holding charge during the period of the incident by the respective Municipal Commissioners of the Rajkot Municipal Corporation,

Ahmedabad Municipal Corporation, Vadodara Municipal Corporation and Surat Municipal Corporation.

2 Mr.Virk, learned counsel, also tenders an affidavit on behalf of the Municipal Corporation of Ahmedabad, which is taken on record. A cursory reading of the affidavits of the Municipal Commissioners of the Rajkot Municipal Corporation, namely, that of Mr.Amit Arora, which is at page 1477 categorically states that no periodic checks were carried out by the Fire Department of the Corporation at the TRP Game Zone and there was no compliance of the safety measures in accordance with the Fire Safety Act. This is in context of the previous statement made in the affidavit that no application was made for Fire NOC.

3 Mr.Virk, learned counsel, has drawn our attention to the affidavits filed by the successive Municipal Commissioners, including that of one Mr.Anand Patel, Commissioner when the tragedy occurred. Reading of the

affidavit also indicates that the ticketing license was in the nature of ticketing / book permission granted under Sec.33(x) of the Bombay Police Act. Admittedly, therefore, there was no permission under Sec.33(w) of the Act, of which we have extensively referred to in our order dated 27.05.2024.

3.1 Mr.Virk, learned counsel, has also taken us to the affidavit filed by the Municipal Commissioner who took charge post the order dated 27.05.2024, which, in his submission would encapsulate the stand of the Corporation in the period between which game zone was setup and when the incident occurred. Reading the affidavit indicates that the stand of the Commissioner is that the record reflects that the West Zone TPD Office of the Corporation was conscious of the construction which it ought to have inspected / visited so as to take further action. That a notice for demolition was given on 08.06.2023 and a notice was also given on 11.04.2023, to remove the unauthorized construction under the

provisions of the Municipal Corporation Act. These are glimpses of the affidavits of the Corporation's Commissioner at Rajkot.

4 Mr.Kamal Trivedi, learned Advocate General appearing with Ms.Manisha Shah, learned Additional Advocate General, have taken us through the affidavit filed by one Dr.Harshit Gosai, Joint Secretary, Law & Order, giving a brief over view which indicates the details of the land used of the TRP Zone and the developments post the tragedy.

4.1 Mr.Trivedi, learned Advocate General, has informed us that apart from the interim report which has been placed on record by way of this affidavit, the Special Investigation Team has sought for an extension of two months for furnishing the report and the request have not been acceded to, inasmuch as, the State has indicated to the Special Investigation Team that the report ought to be filed by the 20.06.2024.

5 Reading of the affidavits of the Corporation essentially the Rajkot Municipal Corporation would indicate that, prima facie, our apprehensions have turned out to be somewhat true, inasmuch as, there has been a dereliction of duty on the part of the officials of the Corporation be it the ones manning the highest rungs of the Corporation i.e. the Commissioners of the respective Corporations.

6 We are informed by the learned Advocate General that the records of the affidavits filed by the Municipal Commissioners of the respective Corporations have been forwarded to the Special Investigation Team and they shall be looked into in order to fix the responsibility of these Commissioners and if they have been found wanting in their discharge of duty, appropriate action shall be taken.

7 Mr.Panchal, learned counsel appearing in the Civil Application, has filed an additional affidavit which he

shall tender in the registry.

8 We have noted the contents of the additional affidavit which indicate that there has apparently been non compliance of the initial order and the orders passed by this Court in the fire safety PILs from time to time. We have, in the order passed on 27.05.2024, noted these observations and the affidavits filed by the Corporations through their Municipal Commissioners indicate statistical data as to what mock drills etc., that they are conducting in various jurisdictional cities. Whereas, it is apparent that a lot needs to be said about the compliance of the orders of this Court, which, in the submission of Mr.Panchal, is a continuing contempt. Be that as it may. In his submission, the Corporations are still wanting in their discharge of duties and compliance of the orders passed by this Court in the PIL concerning the fire safety.

9 We have heard Mr.Brijesh Trivedi, learned counsel, who initially appeared before us on 26<sup>th</sup> and 27<sup>th</sup> of May,

2024. A fundamental question has been raised by the State on the locus of the learned counsel Mr. Brijesh Trivedi's appearance by the learned Advocate General, inasmuch as, once having brought to the Court's notice, and the Court having taken Suo Moto cognizance pursuant to the request made by the President of the Bar Association, on 26.05.2024, having registered the Suo Moto proceedings and having proceeded thus, in the submission of the learned Advocate General, the counsel for the Suo Moto proceedings can aptly take care of these proceedings.

10 For the issues raised above and for considering the progress that the SIT has made on the final report, for further consideration of the issues, stand over to 13.06.2024.

**(BIREN VAISHNAV, J)**

**(D. M. DESAI, J)**

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