

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/WRIT PETITION (PIL) NO. 10 of 2023**

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BALDEVBHAI SOMABHAI PRAJAPATI

Versus

THE GANDHINAGAR MUNICIPAL CORPORATION

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Appearance:

MR AM PAREKH(562) for the Applicant(s) No. 1

MS SOFIYA Y PARMAR(11741) for the Applicant(s) No. 1

for the Opponent(s) No. 1,10,11,2,3,5,6,7,8,9

MR SHAHIL TRIVEDI, ASST. GOVERNMENT PLEADER/PP for the

Opponent(s) No. 4

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CORAM: HONOURABLE THE CHIEF JUSTICE MS. JUSTICE SONIA GOKANI

and

HONOURABLE MR. JUSTICE SANDEEP N. BHATT

Date : 22/02/2023

ORAL ORDER

(PER : HONOURABLE THE CHIEF JUSTICE MS. JUSTICE SONIA GOKANI)

1. The petitioner is a citizen of this Country and is a resident of the area and is an agriculturist having the agricultural land bearing Survey No. 392 has approached this Court for stopping the illegal skinning and carcass disposal at Pethapur, Taluka and District Gandhinagar by preferring this petition under Article 226 of the Constitution of India.

1.1. He has his ancestral property and agricultural land within the revenue limit of Pethapur, Taluka and District

Gandhinagar. According to him, the inaction on the part of the respondent authority is causing the health hazards for the residents of the area. It is also causing serious harm to the environment as well. From the year 2018, according to him, he has been approaching the Collector, Gandhinagar and this had continued for all these years, however, no heed is paid to any of the representations and therefore, is before this Court with the following prayers:-

“12. It is therefore, humbly and most respectfully prayed that this writ petition may kindly be allowed and the Honourable Court may call for entire record concerning the case and after examining the same issuing writ, order or direction or in the nature thereof;

(A) Respondent no.1 is directed to stop the illegal activities mentioned in the petition be stopped with immediate effect.

(B) Respondent no.1 also be directed to take appropriate decision as per the section 326 of the Gujarat Provincial Municipal Corporation Act, 1949 regarding prohibited activity, and to notify the place and area as per section 323 of the Act, and appoint

appropriate authority for the area for restoring the natural environment and undone the loss done to environment by planting trees and greenery.

(C) Grant such other and further relief that may be deemed fit and proper in the facts and circumstances of the case.

(D) Cost of the writ petition may kindly be awarded to the petitioner.”

2. We have heard learned advocate Mr. A.M.Parekh who has also produced before us the photographs depicting the condition of dead animals which, according to him, is for five years. It is a subject matter of concerned for all around. For stopping the illegal skinning and carcass disposal, it is strenuously urged that some guidelines would be needed. Presently, what is noticed that there is seriously flouting of the provision of Prevention and Control of Infectious and Contagious Diseases in Animals Act, 2009.

3. Issue **Urgent Notice**, making it returnable on **02.03.2023**. Learned Assistant Government Pleader waives service of notice for and on behalf of the respondent nos. 2 to

5. Qua rest of the respondents, direct service is permitted.

4. Learned Assistant Government Pleader on an advance copy has ensured that he shall be ready with the report of the Collector, Gandhinagar.

5. We also notice that Section 133 of the Code of Criminal Procedure provides the procedure to be used in cases for removal of public nuisance. It provides that whenever a District Magistrate or a Sub-Divisional Magistrate or any other Executive Magistrate specially empowered in this behalf by the State Government, on receiving the report of the Police Officer or on other information and on taking such evidence as he things fit, considers that there will be a requirement for any unlawful obstruction or nuisance to be removed from any public place, he may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, to preventing and stop and remove such obstruction and nuisance.

6. Let on the returnable date, the District Magistrate or a Sub-Divisional Magistrate or the Executive Magistrate as the

case may be, report to this Court as to what steps have been taken in wake of the repeated applications moved by the petitioners seeking to remove the nuisance in all these years.

(SONIA GOKANI,CJ)

(SANDEEP N. BHATT,J)

Bhoomi

