

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/WRIT PETITION (PIL) NO. 110 of 2020

With

R/WRIT PETITION (PIL) NO. 111 of 2020

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PRANIN FOUNDATION THROUGH ITS FOUNDER NEHA DWARKADAS
PATEL

Versus
STATE OF GUJARAT

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Appearance:

MR HM PARIKH, SENIOR COUNSEL WITH MR HARSH M KHEMKA(7880)
for the Applicant(s) No. 1

MR KAMAL TRIVEDI ADVOCATE GENERAL WITH MS MANISHA
LAVKUMAR SHAH GOVERNMENT PLEADER for the Opponent(s) No.
1,2,3,4,5

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CORAM: HONOURABLE THE CHIEF JUSTICE MR. VIKRAM NATH

and

HONOURABLE MR. JUSTICE J.B.PARDIWALA

Date : 30/07/2020

COMMON ORAL ORDER

(PER : HONOURABLE MR. JUSTICE J.B.PARDIWALA)

1 As the issues raised in both the captioned writ applications are the same, those were heard analogously and are being disposed of by this common order.

2 For the sake of convenience, the Writ Application (PIL) NO.111 of 2020 is treated as the lead matter.

3 By this writ application under Article 226 of the Constitution of India, filed in Public Interest, the writ applicant claiming to be a social activist and a resident of Rajkot, has prayed for the following reliefs:

“A. Your Lordships be pleased to issue a writ of mandamus or direct the respondents to issue a directions or guidelines directing the manner in which the holy festival or Eid-Al-Adha may be celebrated;

B. Your Lordships be pleased to issue a writ of mandamus or direct the respondents to impose a complete ban on the slaughtering of goat/sheep/buffalo/male buffalo and consumption of such meat that has not been cleared as fit for consumption by the Veterinary Officer; for a period between 31st July 2020 to 1st August 2020.

C. Your Lordships be pleased to direct the respondents to take measures such as enforcement of naka bandi and other measures to ensure that the individuals don't gather on roads, footpath or public places for offering the sacrifice as a ritual of Bakri Eid.

D. Your Lordships be pleased to direct the respondents to impose a ban on operation of 'Mandi' that are organized for the purpose of selling animals; till the pious festival of Eid-Al-Adha is over; and be pleased to prohibit individual traders from effecting sale etc of animals upto 03.08.2020.

E. Your Lordships be pleased to direct the respondents to impose a complete ban on transportation of animals.”

3 The case put up by the writ applicant, in his own words, as pleaded in the writ application, is as under:

“4.1 With an estimated 1.12 Million number of confirmed cases of

COVID19 within the country, the COVID-19 outbreak has impacted the lifestyle of each and every citizen of India, immaterial of their caste and creed. In the last few months there has been a plethora of restrictions that have been imposed for containing the rampant spread of the deadly virus. With COVID-19 being declared as a pandemic by the World Health Organization on March 11, there's an increased constant effort to prevent the spread of the virus, which has led to the cancellation of many events, including Sporting games, concerts, religious congregation, festivals, and movies.

4.2 The cause of filing the present petition has arisen in view of the approaching Eid-Al-Adha i.e. Bakri Eid, which is a pious religious festival of the prestigious Muslim Community. Eid-Al-Adha is the "festival of sacrifice" that honours the willingness of Ibrahim, the messenger in Islam, to sacrifice his son as an act of obedience to God's command. Every year on this day, the individuals of Muslim community gather in groups and offer their prayers at the mosque; wear new clothes and greet each other. Muslims worldwide celebrate Bakri Eid by sacrificing male goat/sheep/buffalo/male buffalo as a symbol of the sacrifice made by Ibrahim. The sacrifice is usually carried out in the backyards; or on the mads; or on footpaths; or places near the drainage. The people of the entire vicinity gather around at a decided place and tum by tum offer their sacrifice. Over here it is pertinent to note that people of Muslim community gather in clusters and undertake this offering. After the goat/sheep/buffalo/male buffalo is sacrificed, turn-by-turn it is butchered into small pieces for feasting of everyone. People of Muslim community visit each other's home and exchange the goat/sheep/buffalo/male buffalo's meat and gifts. People also distribute the meat to the

poor. Further the meat is stored for offering it to the visiting guest coming to meet in the following days.

4.3 With social distancing being the major tool to keep the spread of COVID-19 at bay, there is a palpable concern amongst billions of Indian Citizens that if Bakri Eid is permitted to be celebrated in regular fashion then that will be an invitation for the catastrophe to strike. In India currently there is a huge surge in the cases of COVID-19 and by not regulating the event of Bakri Eid, with all certainly, will drastically increase the rampant spread of the pandemic. Over here it is pertinent to state that in the containment zones there is a complete ban on the celebration of any religious festivals and as per the order dated 29/06/2020; issued by the Ministry of Home Affairs, Government of India – the activity of religious congregation is also not permitted outside the containment zone. Meaning thereby that religious congregation cannot take place in both the containment and safe zone. Therefore immediate intervention is required on the subject matter of Bakri Eid, at the earliest.

4.4 Further the anticipation is not only related to the large gathering but the flags are also raised to the aspect of consuming the meat and distributing the same. For instance, since the animal will not be slaughtered in a regulated slaughter house there is a very less probability that the animal will not be cleared by the Veterinary Officer as 'fit for consumption'. Further there are reports to suggest that the animal may also be carrier of deadly bacteria and virus which can eventually trigger a pandemic like COVID-19. In support of this say it is submitted that there are animals in the world that have tested positive for COVID-19 and have also died due to it. Recently in the State of

Karnataka, a flock of 50 sheep was diagnosed with respiratory issues after their owner was diagnosed with COVID-19. Therefore, though less, there is a probability of epidemic being spread from consuming the meat of goat/sheep/buffalo/male buffalo, especially when they are not certified, by Veterinary Officer, as fit for consumption.

4.5 Additionally, the goat/sheep/buffalo/male buffalo that are to be sacrificed in Gujarat are procured from the remote areas of Gujarat and Rajasthan. Now these animals are raised by farmers and villagers who are not certified for breeding and farming of animals. Thus, the compliance of proper hygiene in the time of pandemic is highly doubtful; these persons are likely to be corona positive. Furthermore there is also a likelihood that during the course of transportation, if the animal handlers or the transporters are Corona positive then they might pass on the deadly virus into these animals; which in turn will infect the humans who consume it. Furthermore it is also a prudent anticipation that by now hundreds of animals are brought into cities and towns of Gujarat in bulk and are kept in groups in different areas for selling / keeping for the purpose of Bakri Eid sacrifice. Hence the chance of spread of COVID-19 from Corona positive animals handlers to animals and from animals to humans will increase and thus, the animals brought for purpose of sacrifice are required to be located and seized for temporary period up to 03/08/2020 with condition to release back, after checking for any symptoms.”

4 Thus, the issue raised in public interest is with regard to the slaughtering / Kurbanī (sacrifice) of animals on the day of “Bakri Eid”, which will be celebrated across the State on 1st

August 2020. Mr. H.M. Parikh, the learned senior counsel appearing for the writ applicant would submit that this Court, in exercise of its writ jurisdiction under Article 226 of the Constitution of India, may issue appropriate directions / guidelines as regards the slaughtering of the animals on the day of “Bakri Eid”. Mr. Parikh pointed out that “Bakri Eid” (Eid-Al-Adha) will be celebrated across the State of Gujarat on 1st August 2020. The apprehension expressed by Mr. Parikh is that having regard to the current pandemic situation, there should be an absolute ban on the slaughtering of animals and consumption of meat that has not been certified as fit for consumption by a competent officer in law. He would submit that every year, animals are being slaughtered on the day of “Bakri Eid” on roads, footpaths and public places. This according to Mr. Parikh may lead to a serious health hazard.

5 In such circumstances referred to above, Mr. Parikh prays that appropriate directions may be issued in public interest.

6 On the other hand, Mr. Kamal Trivedi, the learned Advocate General and Ms. Manisha Lavkumar Shah, the learned Government Pleader have appeared on behalf of the State in this litigation and submitted that this Court need not entertain this petition as the Notification dated 25th July 2020 issued by the Police Commissioner, Ahmedabad city, in exercise of his powers under Section 144 of the Code of Criminal Procedure, 1973 takes care of the situation. Mr. Trivedi and Ms. Shah have made available the Notification duly translated in English for our perusal. The Notification reads thus:

*“Police Commissionerate, Ahmedabad City,
Shahibaug, Ahmedabad.*

*Special Branch.079.25633400-Office Telephone Number.
Email: Spl1-ahd@gujarat.gov.in*

Notification

*Order passed under provision of Section-144 of the Code of Criminal
Procedure, Year 1973 (No.2 of 1974):
No.S.B./ Notification/ A-Section/ Permit/ 35/ 2020.*

Perused :

- (1) Letter vide Outward No.G/725/ Zone-2/ 5370/ 2020, dated 23/07/2020 of the Deputy Commissioner of Police, Zone-2, Ahmedabad City.*
- (2) Letter vide Outward No.G/725/ Zone-4/ 3023/ 2020, dated 24/07/2020 of the Deputy Commissioner of Police, Zone-4, Ahmedabad City.*

The festival of "Bakri Id" (Idd-Ul-Aza) is approaching on this 01/08/2020. As a part of celebration of said festival, certain types of animals are being killed as Kurbani (sacrifice). Killing of any animals at public or private places, Mohalla or in the lane in the manner visible to other people, leads to disturbance of religious sentiments of people of other religions/ communities and thereby there is a possibility of breach of peace and tranquillity. Under present circumstances of Corona Pandemic in the entire Country, time to time the guidelines are being issued by the Government and all the necessary action are being taken to contain the Corona Virus. Also, under the circumstances the transmission of Corona Virus has been increasing, there is very less possibility of relaxation in the guidelines of the month of August for celebration of festivals. Considering the same, with the intention of maintaining the law and order, it appears necessary

to take action under provision of Section-144 of the Code of Criminal Procedure, 1973 (No.2 of 1974).

Therefore, it is necessary to apprise the Religious Leaders / Trustees / Administrators / Maulavisin Mosques, Idgahs at the places concerned in Ahmedabad City having more possibilities of huge gatherings of people or organizing Julius (procession) on account of the festival of BakriIdd.

Therefore, I the undersigned Mr.AshishBhatiya, Police Commissioner, Ahmedabad, by virtue of the powers vested upon me under provision of Section-144 of the Code of Criminal Procedure, 1973 (No.2 of 1974), hereby pass the following order on publishing the notification, to remain in force during the period from 00:00 Hrs. on 27/07/2020 to 24:00 Hrs. on 05/08/2020 that :

- (1) No person will kill any animal at public or private places, Mohalla or in the lane in the manner visible to other people. Also, not to decorate and move the animals alone or in the form of Sarghas (Procession) in public.
- (2) After the Kurbanı of animal as a part of BakriIdd celebration, not to throw in public the flesh, bones and other remains of animals.

- (3) *In the circumstances of COVID-19 Pandemic, all people will have to compulsorily wear mask and maintain social distancing.*
- (4) *No one will spit in public.*
- (5) *All will have to strictly comply with the orders and guidelines of the Government of India and the Government of Gujarat to contain COVID-19.*

:- Jurisdiction :-

*Ahmedabad City and entire area under the Police Commissionerate,
Ahmedabad City.*

:- Punishment :-

The person breaching or violating this order will be liable for punishment under provision of Section-188 of the Code of the Indian Penal Code, Year 1860 (Act-45).

:- Public Notification :-

I hereby direct to publish this order in aforesaid areas by pasting at the places concerned in the manner it can be easily visible, announcement on loud-speakers and local news-papers, Akashwani and Doordarshan Centres.

Pursuant to this order, all the officers, by virtue of the

designations form Joint Commissioner of Police, Additional Commissioner of Police to PSI are hereby authorised to lodge the complaint in the matter against persons concerned violating this Notification, under provision of Section-188 of the Code of the Indian Penal Code, Year 1860.

Today on 25/07/2020 the signature and seal of the designation of the undersigned have been made.

*Sd/-
(Ashish Bhatiya),
Police Commissioner,
Ahmedabad City.*

Copy forwarded respectfully to :-

- (1) Principal Secretary, Home Department, State of Gujarat, Gandhinagar.*
- (2) Additional Chief Secretary, Home Department, GS, Gandhinagar.*
- (3) Director General of Police and Chief Police Officer, GS, Gandhinagar.*
- (4) Additional Director General of Police (Int.), GS, Gandhinagar.*
- (5) Police Commissioner, Surat, Vadodara, Rajkot Cities.*
- (6) Municipal Commissioner, Ahmedabad City.*

7 Mr. Trivedi and Ms. Shah would submit that the Notification should take care of the apprehensions expressed by the writ applicant in this writ application filed in public interest.

8 Having heard the learned counsel appearing for the parties and having gone through the materials on record, we are of the view that we need not adjudicate this writ application filed in public interest any further, more particularly, after going through the Notification referred to above. We are satisfied with all the relevant aspects being taken care of in the Notification. We may only say that such Notification be issued at the earliest in all areas of the Commissionerate across the State. The

Notification on the same line shall be issued by all the Police Superintendents of the respective districts across the State of Gujarat.

9 With the aforesaid, both the writ applications are disposed of.

(VIKRAM NATH, CJ)

CHANDRESH

(J. B. PARDIWALA, J)

