

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/MISC. CIVIL APPLICATION NO. 979 of 2019

In R/WRIT PETITION (PIL) NO. 170 of 2017

With

R/WRIT PETITION (PIL) NO. 139 of 2021

With

CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2023

In R/WRIT PETITION (PIL) NO. 139 of 2021

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MUSTAK HUSSAIN MEHNDI HUSSAIN KADRI

Versus

JAGADIP NARAYAN SINGH, IAS

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Appearance:

MR AMIT M PANCHAL WITH MR ANGESH PANCHAL for Applicant(s) No. 1
MS MANISHA LUVKUMAR, GOVERNMENT PLEADER WITH MR CHINTAN
DAVE, AGP for the Opponent(s) No. 1

MR MIHIR JOSHI, SENIOR ADVOCATE WITH MR SATYAM Y
CHHAYA(3242) for the Opponent(s) No. 2

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CORAM: **HONOURABLE MR. JUSTICE A.S. SUPEHIA**

and

HONOURABLE MR. JUSTICE M. R. MENGDEY

Date : 11/07/2023

COMMON ORAL ORDER

(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. The various order sheets reflect that right from 11.10.2021, various directions are issued by this Court for implementing the directions issued vide judgements dated 11.05.2018 and 07.08.2018 passed in the captioned writ petition being Writ Petition (PIL) No.170 of 2017. On 18.10.2022, the Coordinate Bench, after recording names of the officers of the State in paragraph Nos.2 and 3, has observed thus:

"2. The learned Advocate General, leading the arguments on behalf of the respondent-State and its

instrumentalities, would assure the Court that a proposal, which can crystallize by way of action at the ground level, would be prepared and placed before this Court immediately after reopening of the Court and also assures the Court that all reasonable steps would be taken to prevent the stray cattle menace in the entire State and it would be dealt with firmly and authorities would leave no stone unturned for ensuring its prevention and steps being taken would see its logical end. His assurance given to the Court is placed on record and we do hope and trust that a concrete proposal would be placed not only for ensuring the prevention of stray cattle menace but also the implementation of the directions issued by this Court in Writ Petition (PIL) No.170 of 2017.

3. Mr. Mihir Joshi, learned senior counsel appearing for the AMC submits that without prejudice to the rights and contentions of the AMC, a decision has been taken for the present to pay an ad-hoc payment of Rs.2,00,000/- to the deceased, namely, Mr. Bhavin Patel and till a policy decision is evolved by the State as well as by the AMC, the authority, namely, AMC would pay, as a standalone incident, a sum of Rs.5,00,000/- to the legal representatives of the deceased Mr. Bhavin Patel. His submission and undertaking made on instructions is placed on record. It is made clear that said amount paid to the legal representatives of the deceased would be subject to the right of AMC to recover the said amount from the tortfeasor and AMC is also at liberty to initiate such proceedings against the concerned for recovery of the same in the manner known to law. The payment that would be made to legal representatives of Mr. Bhavin Patel would not come in their way to seek appropriate damages under civil law and all contentions of both the parties in that regard are kept open."

2. Today, when the matter is taken up for hearing, learned Senior Advocate Mr.Mihir Joshi appearing for the respondent - Ahmedabad Municipal Corporation (AMC) has submitted that in fact, the policy was already framed in order to

take care of the State Cattle Menace however, the same was returned by the Standing Committee in the month of April, 2023 for further examination. On a specific query raised by this Court to the learned senior advocate that whether the AMC intends to frame any policy for controlling the State Cattle Menace, it is submitted, upon instructions, that the Corporation has *bona fide* intention to frame such policy and the matter will be re-examined by the Standing Committee. It is further submitted that in fact, as per the direction issued by this Court, the State has also to frame such policy / guidelines so that the same can be applicable to the Nagarpalikas and State Municipal Corporations. It is submitted that in fact, the respondent-Corporation has time and again issued administrative circulars to curb the Cattle Menace.

3. We have noticed that the Coordinate Bench has repeatedly issued the directions in this regard concerning 156 Nagarpalikas and 08 Corporations of the State so that the law enunciated by this Court as well as directions issued by this Court are complied with. However, even after passage of more than four years, neither the respondent-Corporation nor the State has framed any concrete policy / guidelines / administrative instructions in the form of circulars and resolutions regulating the Cattle Menace. Though, in the

affidavits filed by the respective respondents, it is noticed that effective steps are being taken against the perpetrators however, no consolidated guidelines are issued/farmed. The State Government was expected to come up with or frame the policy / guidelines so that the same can be equally enforced in all the Nagarpalikas and the Corporations to prevent further deaths or accidents of its citizens however, as on today, we did not find that any endeavour has been made to crystallize the guidelines or instructions curbing the Cattle Menace.

4. From the orders, which are passed by the Coordinate Bench and this Court, it is axiomatic that neither the respondent-Corporation is seriously considering the impact of the Cattle Menace nor the State authority is inclined to address the issue immediately so that no citizen loses the life or suffers from grievous or fatal injuries. It is not disputed that stray incidents of death due to Cattle Menace have not stopped. It is noticed by us that even the officers, who are on ground and are enforcing the directions issued by this Court are being assaulted by the perpetrators. The orders also reflect that in fact, other States have already framed the guidelines / policy / law to answer the Cattle Menace however, in the present case, despite

various directions issued by this Court, no law in form of instructions or guidelines is framed.

5. Learned Government Pleader has assured that the State authorities will crystallize and frame administrative instructions / circulars / guidelines in order to regulate the Cattle Menace in the entire State.

6. It is noticed by us that such assurance was also given to this Court and recorded in the order dated 18.10.2022, as mentioned hereinabove. A specific statement was made by the learned Government Pleader, giving assurance that *"leading the arguments on behalf of the respondent-State and its instrumentalities, would assure the Court that a proposal, which can crystallize by way of action at the ground level, would be prepared and placed before this Court immediately after reopening of the Court"*. The Coordinate Bench of this Court has in fact, expressed hope and trust that concrete proposal would be placed not only for controlling the State Cattle Menace but also implementation of the directions issued by this Court in the captioned writ petition. Despite the aforesaid assurance, we did not find that any concrete proposal in form of consolidated circular is filed or prepared, except that the same is discussed in meetings.

7. After such assurance, it was expected from the State authority to come up with concrete proposal in the form of policy however, even after the order dated 18.10.2022, nothing has been done with regard to framing of any policy.

8. Under these circumstances and in light of the various orders passed by this Court, including the aforementioned judgements and directions issued in the captioned writ petition, we direct the State to frame the policy or issue administrative instructions crystallizing the steps, which are to be taken to enforce the control of the Cattle Menace in the entire State.

9. In order to see *bona fide* of the State as well as the respondent-Corporation that further steps are taken with regard to framing of policy, the matters is kept for further hearing on **19.07.2023**.

10. Registry to place a copy of this order in the connected matter.

Sd/-
(A. S. SUPEHIA, J)

Sd/-
(M. R. MENGDEY, J)

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