

## IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/WRIT PETITION (PIL) NO. 42 of 2020

=====

SUO MOTU

Versus

STATE OF GUJARAT &amp; 2 other(s)

=====

Appearance:  
SUO MOTU(25) for the Applicant(s) No. 1

for the Opponent(s) No. 5,6,7,8,9

MR. KAMAL TRIVEDI, LD. ADVOCATE GENERAL with MS. MANISHA  
LUVKUMAR SHAH, LD.GOVERNMENT PLEADER with MR. DHARMESH  
DEVNANI, LD. ASST. GOVT. PLEADER  
for the Opponent(s) No. 1,2,3

MR NM KAPADIA(394) for the Opponent(s) No. 4

NOTICE SERVED(4) for the Opponent(s) No. 10

=====

CORAM:**HONOURABLE THE CHIEF JUSTICE MR. VIKRAM NATH**

and

**HONOURABLE MR. JUSTICE J.B.PARDIWALA**

Date : 04/09/2020

ORAL ORDER

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

1. We started today's proceedings by looking into the report filed in the form of affidavit-in-reply, duly affirmed by Dr. Jayanti S. Ravi, the Principal Secretary, Health & Family Welfare Department, State of Gujarat. The report filed by the State Government in the form of an affidavit is pursuant to the order passed by this Court dated 17<sup>th</sup> August, 2020. The report reads thus;

“I, Dr. Jayanti S. Ravi, working as Principal Secretary, Health & Family Welfare Department at Health & Family Welfare Department, Block No. 7/7, Sachivalaya, Gandhinagar, do hereby solemnly affirm and state on

oath as under.

1. I have perused the order dated 17.08.2020 passed in the captioned proceedings taken up suo motu by his Hon'ble Court in the wake of the pandemic Corona Virus. I am also aware about the subject-matter of the captioned proceedings and hence, I am competent as well as authorised to make the present reply affidavit on behalf of the State Government as well as all the respondents in compliance with the directions issued by this Hon'ble Court vide the said order dated 17.08.2020. However, I reserve my right to file further affidavit, if and when it becomes so necessary.

2. This Hon'ble Court vide order dated 24.07.2020 was pleased to issue directions to the State Government on the following issues:-

[1] The State Government shall issue appropriate notification / resolution / circular enhancing the fine to a minimum of Rs.1,000/- for not wearing masks, as already observed above. This levy of fine shall be uniform across the State of Gujarat and in all areas irrespective of any kind of division.

[2] The inflow of people coming to Ahmedabad from the city of Surat onwards should be stopped for a particular period of time at least till the city of Surat becomes normal. We are saying so because as on date there is a decline of cases in Ahmedabad, whereas, there is a steep increase of cases in the city of Surat and the outskirts. We direct that as far as possible the suspected individuals seeking to enter Ahmedabad District must be tested through a Rapid Antigen Test and only if such person tests COVID-19 negative must be given an entry into the Ahmedabad District. This must be published widely so that every person entering into the Ahmedabad District is aware of the same. The pandemic has made its way now in the rural areas and this is not a good sign. Therefore, we direct the State Government to take steps to stop the inflow of the people from Surat who intend to visit the city of Ahmedabad and for this the public transport as well as private transport should be stopped.

[3] The State government shall also keep a close watch and vigil at the Airport and check the passengers before they are permitted to leave the airport.

[4] It is very important to keep a close watch and vigil at all the entry points of Ahmedabad. At any point of time if any one intending to enter Ahmedabad is found to be exhibiting some symptoms of COVID-19 such persons should not be permitted to enter without further tests in this regard. This is the only way the State Government will be able to control the transmission of COVID-19 in the city of Ahmedabad.

[5] We have talked about the importance of wearing masks. We direct the State Government to take steps against all rickshaw drivers who may permit any passenger to board without face mask. The rickshaw driver would also be liable to pay the fine for the same along with the passengers who are found not wearing masks.

[6] In the same manner, let there be a warning in the form of notice to all the shop-keepers across the State of Gujarat that if they would permit any customer to enter in their shops without mask, then the shop owner would also be equally liable to pay the necessary fine.

[7] Hundreds of people are to be seen in different malls across the city of Ahmedabad, more particularly, Ahmedabad One Mall at Vastrapur, Ahmedabad without wearing masks. This is something extremely dangerous. Necessary action shall be taken not only against the shop keepers of the mall but even against the owner of the management of the mall in accordance with law. In the first instance, the entry should be prohibited in the mall if visitor has not put on the mask.

[8] We direct the State Government to create Awareness Committees. It could be hard for the Government's voice to reach every ear. Get together with various different communities leaders across the state to raise awareness about COVID-19 and the precautions one can take to keep themselves safe. Every community elder knows their people the best and would know how to communicate the precautions and protocols to his people in the best way possible.

[9] We direct the State Government to work towards building the medical infrastructure stronger. Provide safe

and effective Personal Protective Equipment (PPE), encourage the recruitment of new doctors and nurses, set up nurse training programmes and encourage people to join the healthcare.

[10] We direct the State Government to identify, appreciate and reward the work of police officers, healthcare workers, volunteers and various other nonprofit organizations that are doing their part in fighting the pandemic.

[11] We direct the State Government to remind the people not to become complacent. This is very important. Remind them to stay safe and not be ignorant of the ongoing pandemic at the same time instill confidence in them and remind them that with collective efforts we can achieve anything.

[12] We direct that district-wise daily tabular data of the total tests performed, total samples tested positive, total persons discharged, total patients home quarantined, total deaths and total deaths where deceased tested COVID-19 positive must be published in all newspapers so as to make people aware of the spread of the virus and ensure that there is no complacency.

3. This Hon'ble Court had adjourned the matter on 04.09.2020. However, the matter was posted for hearing on 17.08.2020 for the purpose of filing appropriate report as regards Surat and the directions issued by the Hon'ble Court. It is humbly submitted that pursuant to the said directions issued by the Hon'ble Court, a report is already submitted before the Hon'ble Court on the directions issued by the Hon'ble Court as well as for Surat.

It is humbly submitted that this Hon'ble Court vide order dated 17.08.2020 was pleased to direct in paragraphs 20 to 30 as under:-

“20. The first and the foremost direction, we intend to give, is to the Chief Secretary, State of Gujarat. The Chief Secretary is directed to constitute a team of five high ranking IAS Officers, not below the rank of Joint/Additional Secretary, at the earliest. The members of the Committee, that shall be constituted, shall immediately take a tour across the State of Gujarat and visit all the Civil/Government Hospitals to take stock of things

prevailing over there. There is lot of hue and cry at various other Civil Hospitals as regards the treatment, services etc. We direct the Committee Members to prepare a comprehensive report as regards the conditions prevailing in all the Civil Hospitals/Government Hospitals in the State of Gujarat where the Covid 19 patients are being treated. The Committee Members shall, very minutely, look into the deficiencies, if any, at such Civil Hospitals so that such deficiencies can be cured and taken care of.

21. We clarify that we are not asking the State Government to undertake this exercise only with a view to point out or highlight the shortcomings and deficiencies in the overall administration of the Civil/Government Hospitals across the State of Gujarat. We are asking the State Government to undertake this exercise with a definite and laudable object. Nothing in this world is perfect. There are bound to be few deficiencies and shortcomings in any type of administration. The idea, with which, we are asking the State Government to undertake this exercise is to ease the difficulties and the problems faced as on date by a common man, more particularly, the members hailing from the poor strata of the Society. This exercise will enable the State Government to provide better medical services in the State of Gujarat during this period of Covid-19 Pandemic. The deficiencies or the shortcomings that may be noticed by the Committee Members can be taken care of so that the quality of medical services and overall administration may improve. The circumstances, as on date, are such that it is difficult for a common man to come forward and point out his problems. It is with this spirit that the State Government shall undertake the exercise. We expect the Committee Members to effectively interact with the resident doctors, interns, superintendence, nursing staff, and above all, the patients and their family members, attending the patients in the Hospital. Such interaction will go a long way in achieving the object, with which, the exercise is to be undertaken.

22. Let this exercise be undertaken at the earliest.

23. Our next date of hearing of the main Writ Petition (PIL) No.42 of 2020 is 4th September, 2020. By that time, the Committee Members shall try their best to cover all the Civil Hospitals and place an appropriate report before this Court.

24. Considering that there are almost 11.5 Lac workers and labourers employed in the various industries in Surat, and also having regard to the fact that the Country is slowly moving towards the "Unlock Phase", the influx of such migrant labourers will be on the rise in the coming months. While the initiative of having a separate Standard Operating Protocol for the Diamond & Textile Industries is appreciable, we would like to know whether such a protocol is in place for the other industries too.

25. We would also like to know how many industries are there in Surat and how many have become functional as on date.

26. We would like to know how many workers have resumed and have been integrated back into the workforce.

27. We would also like to know what is the frequency of testing in these industries.

28. In the last, we would like to know the exact details of "strict implementation" of the SOP"s in such industries.

29. We have also noted the availability of the various life saving drugs in the Civil Hospital, Surat and also the fact that such drugs are being provided to the patients in the private Hospitals. However, we would like to inquire whether there is a safety-cum-checking mechanism in place to ensure that the patients in the private hospitals, for whom such drugs are provided by the State, are actually being administered to them or not. In essence, our question pertains to the process of verification regarding the receipt of the life saving drugs by the beneficiaries concerned.

30. We expect a comprehensive report on all the above referred aspects by the next date of hearing. At this stage, we would like to say something. We make it clear that from now onwards, the report that may be filed before this Court, shall be in the

form of an affidavit, duly affirmed by the Principal Secretary, Health & Family Welfare Department, State of Gujarat.

5. This Hon'ble Court was pleased to direct the members of the committee to visit all the Civil/Government Hospitals and to submit an appropriate report. This Hon'ble Court also directed the deponent to provide various details in paragraph 23 to paragraph 30.

6. In reply to para 4 of aforesaid order in Writ Petition (PIL) No. 116 of 2020, as on date total 45 Designated Covid Hospitals including New Civil Hospital and SMIMER Hospital are available in Surat city. In addition another 20 Covid Care Centers are also available for asymptomatic or pre-symptomatic patients. As on 31.08.2020, total 903 patients are admitted in various COVID Hospitals and CCC in Surat.

7. In reply of para 5 of order, Injection Dexamethasone is sufficiently available in all hospitals throughout the pandemic. There is no shortage found anytime and all the patients have been given Inj. Dexamethasone who have been prescribed by physician.

8. It is further submitted in reply of para 6 of aforesaid order, as per discharge policy adopted by Health Department of Gujarat, any patient is discharged only when he or she is stable or not having breathlessness on room air without O<sub>2</sub> for 3 days consecutively. After discharge, at home if any patient has complain of breathlessness, he or she is transferred to hospital. So there is no need of Oxygen at home for patients.

9. In para 20 of aforesaid order, Hon'ble Court has directed to constitute a team of high rank IAS officers, not below the rank of Joint/ Additional secretary. The Government has constituted a committee of five senior IAS officers, wide letter no: NCV/ 102020/ 325/ G Date: 26/08/2020 to visit and inspect all Civil Hospitals in the State. Ms. Sonal Mishra, Secretary, Narmada, Water Resources, Water Supply and Kalpsar Department is entrusted the Civil Hospitals of Rajkot and Bhavnagar region; Shri Vinod Rao, Secretary, Education Department, of Vadodara region, Shri Thennarsan, Vice Chairman and Managing Director, GIDC of Surat region; Shri Milind Torvane, Secretary, Finance of Ahmedabad region and Shri Sandip Kumar, Secretary, Cottage & Rural Industries is entrusted the responsibilities of visit and inspection of

Civil Hospitals of Gandhinagar region. Shri Pankaj Kumar, Additional Chief Secretary (Revenue) and Dr. Jayanti Ravi, Principal Secretary (Health & Family Welfare) will be convener and co-convener respectively for this committee. Committee has been provided one "Hospital Preparedness and Isolation Facility Assessment Checklist", for their reference. The committee was instructed to submit the comprehensive report including patient satisfaction, infrastructure availability, legal license, HR availability, cleanliness, etc. The members are also asked to interact with RMO, Interns, Hospital staffs, Nurses, Patients, Family members and attending the patients in the hospitals for the feedback and prevailing conditions in the hospitals.

10. In reference to the above mentioned Government order, all senior officers have visited hospitals in the regions they have assigned. Shri Milind Torwane, Secretary, Finance has visited Civil Hospital, Ahmedabad, Civil Hospital, Nadiad, Civil Hospital, Surendranagar and G.M.E.R.S. Medical College Hospital, Sola, Ahmedabad. Shri Thennarsan, Vice Chairman and Managing Director, GIDC has been assigned Surat region and he has visited New Civil Hospital, Surat; Civil Hospital, Tapi; Civil Hospital, Ahwa-Dang; Civil Hospital, Navsari and G.M.E.R.S. Medical College Hospital, Valsad. Shri Vinod Rao, Secretary, Education Department has visited SSG Hospital, Vadodara; G.M.E.R.S. Medical College Hospital, Gotri, Vadodara; Civil Hospital, Godhara; Civil Hospital, Dahod; Civil Hospital, Lunavada; Civil Hospital, Chhotaudepur; Civil Hospital, Narmada and Civil Hospital, Bharuch. Ms Sonal Mishra, Secretary, Narmada, Water Resources, Water Supply and Kalpsar have taken review of hospitals of Rajkot and Bhavnagar regions. She has visited Sir T. Hospital, Bhavnagar and Civil Hospital, Morbi. A Video Conference has been held with all Government Hospitals in these both regions. Shri Sandipkumar has visited all civil hospitals in Gandhinagar region. He has taken visit of G.M.E.R.S. Medical College Hospital, Gandhinagar; Civil Hospital, Mehsana; G.M.E.R.S. Medical College Hospital, Patan; G.M.E.R.S. Medical College Hospital, Himmatnagar and Sarvajani Hospital, Modasa. Inspection and Visit Reports of all Hospitals at this stage could not be prepared on account of paucity of time, on account of administrative exigencies, however, the said report shall be submitted



to the Hon'ble Court within a period of 2 weeks.

11. Regarding testing in the industries, following arrangements have been made.

**1 - SPECIAL CHECKING OF THE RETURNEE LABOURS COMING THROUGH RAILWAY STATION**

Surat Municipal Corporation has formed various SOPs for safe functioning of Diamond and Textile Industries and also for Returnee Labours. The SOP for Returnee Labours is the guideline for enrolment of the migrant Returnee Labourers to duty in their respective industries. An algorithm is set stating the procedure for the same whereby a labour is allowed to resume the duty only if he has tested negative or he has presence of antibody or has been quarantined for a period of 7 days. SMC has also formed SOPs for operating of two major industries of Surat i.e. Diamond and Textile.(Copy of all SOPs are attached herewith). The SOPs have laid down detail guidelines for measures to be taken by the industrial units for safe operation of business. Industries have also been instructed to ensure strict implementation in this regard.

- (a) All Labourers are checked at Railway Station and Symptomatic Labourers are tested

A static unit has been established at Railway Station for screening of the passengers disembarking at Surat Station. All the passengers are screened for temperature and Oxygen level at such unit and symptomatic passengers are tested for COVID-19 on the spot. Random testing of passengers is also carried out on the spot.

Details of Testing at Railway Station	
No of passengers Tested	No of passengers found positive
6761	78
Passengers found positive have been sent to health centres for treatment	

- (b) Special Call Centre for follow up of the Returnee Labourers Daily manifest of passengers returning to Surat through Railway is obtained from railway stations daily. The details of such returning passengers are verified

through a call centre established by SMC for this purpose only. After verifying the details, the list is sent to the field offices (zone offices) of SMC for further follow up. After contacting a person, he or she is tested for covid-19 and if found positive is treated accordingly. Strenuous efforts are being made to contact all the returnees through SMC call centre. Many contact numbers were incorrect, many passengers did not pick up the call after repeated efforts, many passengers were found who did not boarded the train and few hundreds were the booking agent's number. After taking out all above 19000 passengers and their families have been screened and 6714 passengers have been traced and identified as labours. All of them have been contacted and 1737 have been tested for COVID- 19, of which 16 have been found positive. Those not tested have been quarantined for 7 days before they resume their duties in concern industries.

## 2 - SPECIAL ARRANGEMENTS AT BUS STANDS AND CHECK POSTS

### (a) Screening facility at Bus Stands

Static units have also been established at Bus depots for screening of passengers disembarking at Central and Adajan Bus Depots. All the passengers are screened for temperature and oxygen level at such units and symptomatic passengers are tested for COVID-19 on the spot. Random testing of the passengers is also carried out on the spot.

Details of Testing at Bus Stands	
No of passengers Tested	No of passengers found positive
2401	41
Passengers found positive have been sent to health centres for treatment	

### (b) Screening facility at different entry point check posts

For tracing and testing of passengers returning by Road, 5 check posts have been set up at 5 main entry routes to Surat City. (i) Valak Patiya Check post for vehicles entering from Kamrej (ii) Kadodara Check post for

[WWW.LIVELAW.IN](http://WWW.LIVELAW.IN)

vehicles entering from Bardoli (iii) Bhatiya Check post for vehicles coming from Maharashtra side (iv) Sayan Check post for vehicles entering from Kim/Kosamba side (v) Jahangirpura Check post for vehicles entering from Olpad side. All the vehicles entering Surat City from other Districts and States are randomly intercepted and the passengers are tested at the Check posts. Moreover a SMC has also tied up with the GSRTC. Personals from GSRTC also remain present at the Check posts for facilitating the testing of passengers travelling by GSRTC buses. The detail of the testing done at these check posts so far is as below.

Details of testing at Check posts in Surat City			
Sr No.	Check Post	Persons tested	Persons found positive
1	Valak	2633	25
2	Kadodara	748	4
3	Bhatiya	2245	46
4	Sayan	366	1
5	Jahangirpura	488	9
	Total	6480	85

## 2 - SPECIAL ARRANGEMENT FOR TESTING IN DIAMOND, TEXTILE & GIDC UNITS

For labours engaged in Diamond/Textile/GIDC units, an alternate system has also been put in place whereby private pathological laboratories have been engaged by SMC for Covid-19 tests through IMA and Pathology Associations. SMC is giving Rapid Antigen Test Kits to such laboratories for testing of labours engaged in these industries. If a unit wants to get all or few of his labours tested through these empanelled laboratories they will have to pay only the operating charges to the laboratories. There is an option for the owners of the industrial units to approach this engaged laboratories for testing of their labours. SMC has engaged 28 such Laboratories. (The List of laboratories is attached herewith). The details of testing done at such laboratories are as below.

Testing details of Returnee labourers			
Sr. No.	Industry	Persons tested	Persons found positive
1	Diamond	32789	368
2	Textile	1814	101
3	GIDC	5811	366
	Total	40414	835

1. For strict implementation of SOP regarding functioning of industries, following measures have been taken:

(1) ARRANGEMENTS FOR IMPLEMENTATION OF SOPs

(a) Training of Master Trainer for implementation of SOPs

For ensuring proper implementation and awareness regarding SOPs by industries and workers, Personnel Officer of Surat Municipal Corporation, Dr. Hirnesh Bhavsar has been appointed as the Nodal Officer for imparting training to the master trainers of various industries. 130 school board staffs were also trained for imparting such trainings. All the industries are required to appoint a master trainers who are have been made responsible for training all the labourers of their concern industrial unit. The detail of the training imparted is as below.

Industry	No Master Trainers Trained
Diamond	1600
Textile	350

Central enforcement team for monitoring adherence to SOPs

Central team consisting of personals from SMC, Labour Department, GIDC and field officer have been formed for implementation of SOPs in Textile and Diamond industries which forms a major chunk of the industries in Surat city. 5 such teams visit such units daily on random

basis to ensure the adherence to Sops. The details of actions taken by the team are as below.

Action taken by Central Enforcement team				
No units checked	Units found with violations	Units given closure	No of Units Penalised	Amount of Penalty (Rs)
882	492	176	316	7,33,800/-
Copy of one such closure notice and fine receipt is enclosed herewith				

(c) Area/Zone wise enforcement team for monitoring adherence to SOPs

The field officers of the areas where these industries are located also inspect these units and actions are taken for any violation found therein by them. So far these field teams have given closure to 750 units and a fine of Rs.67, 64,670/- have been levied.

(d) Formation Suraksha Kavach Samiti for ensuring secure working environment in industry

For ensuring a secure working environment in industrial unit, a concept of "Suraksha Kavach Samiti" has been floated and is being implemented. Different Government officers are entrusted to facilitate the formation of "Suraksha Kavach Samiti" in their respective field of industries.

Sr. No.	Designated Officer	Sector
1	Dy. Director, Industrial Safety and Health, Surat	Industries, Factories
2	Dy. Commissioner(Labour), Surat	Textile Market, Diamond Industries.
3	General Manager, DIC, Surat	Unorganised Labour

4	General Manager, GIDC, Surat	GIDC Area
5	District Registrar, Surat	APMC Market/ Co-op. Soc.
6	Executive Engineer, R&B, Surat	all Government Construction Sites
7	I/C City engineer, SMC	SMC Capital Works
8	HOD, Town Development Department, SMC	Private Construction Sites

"Suraksha Kavach Samiti" comprises of 5 to 7 members from a group of industries geographically located in close proximity is formed. These committees have been given responsibilities to monitor the IEC activities, screening of labours entering units, testing of labours found symptomatic and adherence to SOPs in particular industry/group of industrial units. one person from each committee have been identified as the captain of the committee who has been made responsible for sharing the data of observations made by the committee on daily basis. So far 122 no of "Suraksha Kavach Samiti" have been formed in various industrial sectors and efforts are being made to further increase the no of "Suraksha Kavach Samiti" for ensuring a safe and secure environment for workers of the industries."

2. We have heard Mr. Kamal Trivedi, the learned Advocate General and Ms. Manisha Luvkumar Shah, the learned Government Pleader appearing for the State and all other learned counsel assisting this Court in this PIL.

3. Having perused the report filed by the State Government, referred to above, we take notice of the following;

(i) There are, in all, 45 designated Covid Hospitals including the New Civil Hospital and SMIMER Hospital available in the city of Surat. Over and above the same, 20 Covid Care Centers are also available for the asymptomatic or pre-symptomatic patients.

(ii) As on 31<sup>st</sup> August, 2020, 903 patients are being treated in the various Covid Hospitals and Covid Care Centers in Surat.

(iii) The injection Dexamethasone is sufficiently available in all the Hospitals.

(iv) As directed by this Court, the State Government has constituted a committee of five senior IAS Officers to visit and inspect all the Civil Hospitals in the State.

(v) Ms. Sonal Mishra, Secretary, Narmada, Water Resources, Water Supply & Kalpsar Department has been entrusted the Civil Hospitals of Rajkot and Bhavnagar region. Shri Vinod Rao, Secretary, Education Department of Vadodara Region, Shri Thennarsan, Vice Chairman and Managing Director, GIDC of Surat Region, Shri Milind Torvane, Secretary, Finance of Ahmedabad Region and Shri Sandip Kumar, Secretary, Cottage & Rural Industries is entrusted the responsibility of visiting and inspecting the Civil Hospitals in the Gandhinagar Region.

(vi) We take notice of the fact that Shri Pankaj Kumar, Additional Chief Secretary (Revenue) and Dr. Jayanti Ravi, Principal Secretary (Health & Family Welfare) are the convener and co-convener respectively of the Committee.

(vii) We also take notice of the fact that due to paucity of time, the Committee has not been able to place on record the inspection and visit reports of all the Hospitals and has assured that such report shall be submitted to this Court within a period of two weeks.

4. We are happy and quite convinced as regards the efforts which are being put in so far as the city of Surat is concerned. We are of the view that such efforts should continue so as to ensure that the situation does not go out of control.

5. In the aforesaid context, Mr. Amit Thakkar, the learned counsel who came before this Court by filing the Special Civil Application No.116 of 2020 bringing it to our notice the situation prevailing in the city of Surat, submitted that after the order passed by this Court dated 17<sup>th</sup> August, 2020, the situation in the city of Surat and the areas at the outskirts has improved considerably and the difficulties which the people used to experience in the past are now eased. People are quite happy with the efforts which are being put in by the State Authorities as well as by the Corporation Authorities. We are happy to make note of such statement made by Mr. Amit Thakkar, the learned counsel who appeared in the Special Civil Application No.116 of 2020. The Special Civil Application No.116 of 2020 came to be disposed of by this Court in wake of the order passed by this Court dated 17<sup>th</sup> August, 2020 in the WP (PIL) 42 of 2020.

6. At this point of time, we may only say that the State Government shall continue the hard work put in over a period



of time to combat with the situation of the Covid 19 Pandemic. We are at pains to observe that although all efforts are being put in by the State Government to combat with the situation of the Covid 19 Pandemic, yet, unfortunately, the people at large are not cooperating. As a High Court, whatever is expected of it to be done in the current situation, is being done, but unfortunately, people are not paying heed to what the Court has been saying over a period of time. At this point of time, we are now left with only one thing to do and that is to request the people at large with folded hands to cooperate with the authorities and follow the norms and protocols prescribed and, more particularly, take care of themselves individually. If each individual takes upon himself the responsibility of protecting his life, such endeavor will surely bring around very good results, and within a short time, we may be able to overcome the Covid 19 Pandemic.

7. We get to see hundreds of young men and women, boys and girls gathered on the public streets in the evening hours, more particularly, at the most happening places in Ahmedabad. Most of those are to be seen without wearing mask. They are hardly to be seen maintaining the protocol of social distancing which is an order of the day. We are sure the same must be the scenario in other cities and towns also, which is very unfortunate. Unfortunately, they are all from an educated class of Society. If this continues, then we will never be able to overcome the Pandemic. It is high time we all start doing something progressive rather than keep chasing the Covid 19 all the time. Life is too short to do all this. Therefore, the norms and protocols, as prescribed by the State

Government, time to time, needs to be scrupulously followed, and this applies even to the political leaders of the State, senior and junior. The political leaders of the State are expected to lead their masses and not by themselves flout the norms or the rules and regulations prescribed to combat the Pandemic. The flouting of the norms at the end of the political leaders would set a bad example for the people at large, and the same may prompt the people to defy the norms.

8. We take cognizance of the deteriorating situation prevailing in Saurashtra, more particularly, the city of Rajkot etc. We expect the State Government and the authorities of the Rajkot Municipal Corporation to ensure that the situation does not go out of their control. The line of action and model adopted in the city of Ahmedabad should be made applicable in all other major cities, more particularly, the big cities like Vadodara, Rajkot etc.

9. We have been saying from day one that the State Government has been working hard and taking all the necessary steps required to control the Pandemic. However, we are constrained to observe that despite putting best of its efforts, the Government has been getting caught unaware and it gets into action only after the situation worsens. In other words or rather in simple words, we may say that the State Government should now stop playing on the back foot. We are giving a simple illustration in this regard. When the situation in the city of Ahmedabad and the areas at the outskirts became very serious, the State Government gave extra attention and focused on how the situation could be brought in

control. In the same manner, when the situation became extremely bad at Surat, the Principal Health Secretary had to rush and camp at Surat and, ultimately, Surat also witnessed respite from the Pandemic and things are under control. Today Rajkot and Jamnagar are the two cities which are hit extremely bad. This situation could definitely have been averted if timely action and precautions would have been taken. Unfortunately, the same was not done and it has resulted in a situation beyond control. However, we are sure that the situation in Rajkot, Jamnagar and other cities will also be brought in control.

10. We direct the State Government to issue appropriate orders to the concerned authorities to put all the Districts across the State on high alert and start taking appropriate action and steps to curb the surge of spread of virus. The Ahmedabad model shall be made applicable for this purpose.

11. As we are talking about Rajkot, we request Ms. Sonal Mishra, Secretary, Narmada, Water Resources, Water Supply and Kalpsar Department to make an exhaustive survey of the situation prevailing in Rajkot and guide the local authorities over there to proceed in the right direction. We are saying so because Ms. Sonal Mishra is one of the members of the Committee of five senior IAS Officers constituted pursuant to our directions issued vide order dated 17<sup>th</sup> August, 2020 and has been assigned to inspect the civil hospitals of Rajkot and Bhavnagar region.

12. We also take notice of the affidavit-in-reply filed by the

State, duly affirmed by Shri Ashwinkumar Vinodchandra Patel, Assistant Commissioner of Police, SC. ST Cell, Ahmedabad as regards the Rajasthan Hospital episode. At the same time, we have also taken cognizance of the affidavit-in-reply filed by Shri Bhavin Solanki, Health Officer, AMC as regards the incident of the Rajasthan Hospital. The affidavit filed by Shri Bhavin Solanki reads thus;

*"I, Bhavin Solanki, adult, Hindu, working as Health Officer, AMC, having my office at Arogya Bhavan, Gita Mandir, Ahmedabad, do hereby solemnly affirm and state on oath as under.*

*1. I am filing the present affidavit in compliance with the observations of this Hon'ble Court at Pg. Nos 26 and 27 of the order dated 24.07.2020, passed in the captioned Writ Petition with reference to Rajasthan Hospital at Ahmedabad. I respectfully state that I am fully conversant with the facts and circumstances relating to the controversy which arose in past, pertaining to Rajasthan Hospital at Ahmedabad. In view of this, I am competent as well as authorised to make the present affidavit for the aforesaid purpose.*

*2. I respectfully state that on the issue of negligent act on the part of the Management of Rajasthan Hospital, Ahmedabad, I passed an order dated 27.06.2020, and imposed a penalty of Rs.25 lakhs upon the Trust itself, which runs Rajasthan Hospital, and a further penalty of Rs.52 lakhs at the rate of Rs.2 Lakhs in case of each of the 8 members of Board of Management and 18 Trustees of the Trust running the said hospital. For ready reference, a copy of the said order dated 27.06.2020 passed by me as Health Officer of Ahmedabad Municipal Corporation ("**AMC**" for short) is annexed herewith and marked as **Annexure-1**. In furtherance to this, the Dy. Health Officer, Central Zone, AMC has also filed a criminal complaint against Rajasthan Hospital on the same day, with P.I., Shahibaug Police Station, Ahmedabad. A copy of the said complaint dated 27.06.2020 is annexed hereto and marked as **Annexure-2**.*

3. Thereafter, on behalf of Rajasthan Hospital, as well as on behalf of its Office Bearers and Trustees, a legal notice dated 02.07.2020 has been served upon the authorities of AMC, inter-alia, denying all the charges levelled against them, while alleging about the violation of principles of natural justice, alleged exaggeration of time factor involved under the incident in question, and for demanding penal amount without any authority and jurisdiction and also requesting the authorities to grant personal hearing for the purpose of reviewing and recalling the actions taken. A copy of the said legal notice dated 02.07.2020 is annexed herewith and marked as **Annexure-3**.

4. I respectfully state that despite what is mentioned above, AMC persisted in its effort for the recovery of the penal amount referred to above by sending its representative from time to time. Ultimately, the hospital vide its forwarding letter dated 29.07.2020, sent an amount of Rs.25 lakhs under protest, while denying the liability as regards the payment of penalty on the trustees. A copy of the said letter dated 29.07.2020 of the hospital along with a copy of the cheque are annexed herewith and marked as **Annexure-4 (colly.)**.

5. In view of this Hon'ble Court's order dated 24.07.2020 referred to above, passed in the present matter, I also made an inquiry with the police as regards further progress of AMC's criminal complaint dated 27.06.2020 referred to above, and it was reported that the police is inquiring into the whole episode, wherein, AMC had to pass the aforesaid order dated 27.06.2020 and lodged the complaint on the said date, as discussed hereinabove. However, in the meantime, AMC received an email communication dated 14.08.2020, stating inter-alia, that Rajasthan Hospital has instructed its lawyers to file appropriate proceedings challenging the aforesaid order dated 27.06.2020, passed by him. For ready reference, a copy of the said email communication is annexed herewith and marked as **Annexure-5**.

What is stated hereinabove is true and correct to the best of my knowledge, information and belief and I believe the same to be true.

*Solemnly affirmed at Ahmedabad on this 2nd Day of September, 2020."*

13. What we have been able to gather from the aforesaid is that the preliminary inquiry undertaken by the Officer In-charge of the Shahibaug Police Station is going on and the concerned police officer has not been able to reach to any definite conclusion whether the complaint lodged by the Health Officer, AMC discloses commission of any cognizable offence or not. We expect the Investigating Officer of the Shahibaug Police Station to complete the preliminary inquiry and file an appropriate report in accordance with law. We must make a mention at this stage that the order passed by the Ahmedabad Municipal Corporation, imposing penalty upon the hospital and the trustees individually is now a subject matter of challenge by way of the Special Civil Application No.9948 of 2020. We have passed a separate order in this regard today in the above referred writ application.

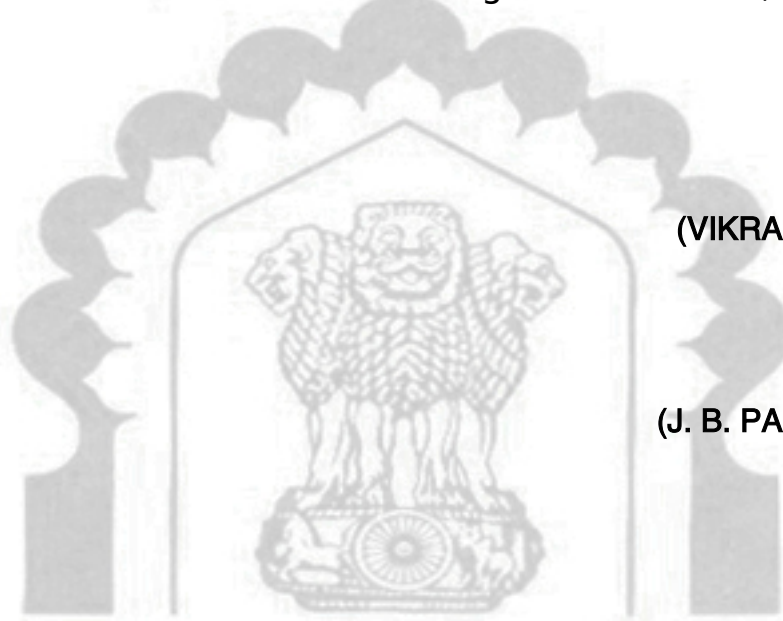
14. In the last, we take notice of the fact that the final year M.B.B.S students, more particularly, the Nursing students around 900 in numbers have, with a sense of responsibility, joined the services as 'Corona Sahayaks'. It is no easy job being on Covid duty. The nature of the virus is such that it arouses fear in the strongest of minds. The High Court is delighted and at the same time thankful to the medical and Nursing students who have decided to lend their service and knowledge in this fight against the Covid-19 pandemic. They may not be Doctors or Nurses but they can play the role of necessary members of the care team. We are pleased to see these students realize and acknowledge their service as being

crucial to the already overwhelmed healthcare system. The helping hand provided by the medical and nursing students will significantly reduce the burden of the front line doctors and nurses. These students of Nursing Colleges across the State and M.B.B.S students chose not to remain mere bystanders. They might still be months away from taking an oath to provide care and yet they chose to uphold the integrity of their oath well before time. We are proud to know that such enthusiastic and passionate students are the future of the medical fraternity.

15. In the last, we take notice of something pointed out to us by Mr. Ansin Desai, the learned senior counsel in the course of the hearing today. Mr. Desai alleged that the State Government, over a period of time, has been suppressing the true figures of the Covid deaths and Covid positive cases. Mr. Desai would submit that such suppression is not in public interest. According to him, the State Government must disclose the true figures of the Covid deaths and Covid positive cases every day so that the people at large may be able to comprehend the gravity of the situation. We do not propose to go into this question as, even otherwise, it is a highly disputed question of fact. We could have seriously called upon the State Government on this issue, but we take it that the figures which are disclosed or declared at the end of the day are true and correct figures. We may only observe without alleging that if there is any element of truth in what has been pointed out by Mr. Desai, then surely it is not in public interest. It is necessary to disclose the true and correct figures of the Covid deaths and Covid positive cases so that people may be able to understand

and comprehend the seriousness of the situation. People will not take things for granted. This will definitely have a psychological impact on the society at large. This aspect should be borne in mind by the State Government as a suggestion from this Court.

16. Post this PIL for further hearing on 9<sup>th</sup> October, 2020.



(VIKRAM NATH, CJ)

(J. B. PARDIWALA, J)

Vahid

सत्यमेव जयते

THE HIGH COURT  
OF GUJARAT

WEB COPY