

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/WRIT PETITION (PIL) NO. 156 of 2018****FOR APPROVAL AND SIGNATURE:****HONOURABLE THE CHIEF JUSTICE MR. R.SUBHASH REDDY****and****HONOURABLE MR.JUSTICE VIPUL M. PANCHOLI**

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	Yes
2	To be referred to the Reporter or not ?	No
3	Whether their Lordships wish to see the fair copy of the judgment ?	No
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	No

=====

**SURAT CITIZENS COUNCIL TRUST**

Versus

**STATE OF GUJARAT**

=====

Appearance:

MR AMIT V THAKKAR(3073) for the PETITIONER(s) No. 1

MS ML SHAH, GP WITH MR. DM DEVNANI, AGP for the RESPONDENT(s) No. 1

MR DHAVAL G NANAVATI(2578) for the RESPONDENT(s) No. 2

NOTICE NOT RECD BACK(3) for the RESPONDENT(s) No. 7

NOTICE SERVED(4) for the RESPONDENT(s) No. 1

=====

**CORAM: HONOURABLE THE CHIEF JUSTICE MR. R.SUBHASH REDDY**

and

**HONOURABLE MR.JUSTICE VIPUL M. PANCHOLI**

**Date : 11/09/2018**

**ORAL JUDGMENT**

(PER : HONOURABLE THE CHIEF JUSTICE MR. R.SUBHASH REDDY)

[1] This Writ Petition is filed under Article 226 of the Constitution of India, by way of Public Interest Litigation, by the petitioner – Trust seeking following reliefs :-

*“12(a) Directing the respondents to strictly implement the guidelines issued by respondent No.8 – CPCB for idol immersion, June 2010.*

*(b) Be please to direct the respondent authorities to prevent the immersion of idols into river Tapi, and direct the respondent authorities to following the guidelines of CPCB, and more particularly to create / construct temporary artificial ponds with earthen bunds not less than 45 in numbers and/or as per requirements as per estimated idols for the purpose of immersion of idols, in Surat.*

*(c) Pending admission, hearing and final disposal of this petition, this Hon'ble Court may be pleased to direct the respondent authorities to submit the report as regards the preparation done for the implementation of the guidelines issued by respondent – 8 CPCB, for the upcoming Ganesh Chaturthi festival on 13<sup>th</sup> September, 2018.*

*(d) Pending admission, hearing and final disposal of this petition, be pleased to direct the respondent authorities to prevent the*

*immersion of idols into river Tapi, and follow the guidelines of CPCB, more particularly create / construct 45 temporary confined ponds with earthen bunds for the purpose of immersion of idols, for the Ganesh Visarjan festival of September, 2018.*

*(e) Such other and further reliefs as this Hon'ble Court may deem just, fit and expedient be granted in favour of the petitioners.”*

[2] The petitioner Trust is registered trust under the provisions of the Bombay Public Trust Act and it is stated that its members are citizens of Surat. It is stated in the petition that the petition is filed in view of inaction on the part of the respondent in strictly implementing guidelines issued for idol immersion issued by the 8<sup>th</sup> respondent – Central Pollution Control Board as well as directions issued by this Court in Writ Petition (PIL) No.248 of 2014.

[3] The case of the petitioner is that Tapi River is one of the major rivers of peninsular India with a length of around 724 kilometers and it is one of the largest rivers which passes through the State of Gujarat. It is stated that Tapi river passes through City of Surat and the water from the river is used for drinking, irrigation and industrial purposes. It is alleged that number of idols are being immersed in the Tapi river during religious festivals. It is stated that above 60,000

Ganesha idols were installed in the City of Surat during 2017 for Ganesh Chaturthi and majority of idols are being immersed in river Tapi, causing health and environment problems for the residents of Surat. It is stated that after Ganesh Visarjan is over, every year many idols float in the Tapi river. It is alleged that as much as, such idols are prepared with Plaster of Paris by using toxic and chemical colour for painting the idols, the TDS (Total Dissolved Solid) rises to alarming level after immersion day of religious festivals. It is alleged that immersion of idols not only causes health and environmental problem, but such activity affects aquatic life also. It is alleged that though certain directives are issued by 8<sup>th</sup> respondent – Central Pollution Control Board and other authorities, but such guidelines are not implemented strictly.

[4] The petitioner has also referred to earlier petition being Writ Petition (PIL) No.248 of 2014 and also directives issued by National Green Tribunal.

[5] In this petition, we have issued notice to respondent Nos.1, 2 and 7. Affidavit in reply is filed on behalf respondent – Surat Municipal Corporation. In the affidavit in reply, while denying various allegations made by the petitioner, it is stated that in view of guidelines issued by the Central Pollution Control Board and to protect

environment of Tapi river and sea, all the idols of Lord Ganesha are being immersed in artificial ponds, which are temporarily created in different Zones in the limits of Surat Municipal Corporation. It is stated that for the year 2018, Surat Municipal Corporation has created 13 artificial ponds in different Zones of the Corporation and further, considering increase in idols, they have decided to create two new artificial ponds in the area.

[6] Further additional affidavit is filed on behalf of the Surat Municipal Corporation. In the further affidavit, it is stated that the Surat Municipal Corporation is ready and willing to accept suggestion for improvement of any civic sense for betterment of citizens of city of Surat.

[7] We have heard Mr. Amit Thakkar, learned Counsel for the petitioner, Ms. Manisha Shah, learned Government Pleader for the respondent State and Mr. Dhaval Nanavati, learned Counsel for 2<sup>nd</sup> respondent.

[8] When the matter is called today, it is fairly brought to our notice by learned Counsel for the petitioner that as assured before this Court, the respondent Municipal Corporation has banned immersion of Ganesha idols in Tapi River and such orders are published in daily

newspaper – Times of India, a copy of which is produced on record. In view of such orders passed by Surat Municipal Corporation, learned Counsel for the petitioner made a request to dispose of the petition by directing the respondents to issue ban orders for immersion of idols during festivals of Durga Puja, Janmashtmi, Moharam etc.

[9] Learned Government Pleader and learned Counsel for Surat Municipal Corporation have produced various orders issued by the Municipal Commissioner of Municipal Corporations in the State of Gujarat. In the material placed on record by the learned Government Pleader, there is proceedings dated 10.09.2018 issued by the office of Surat Municipal Corporation which is addressed to Urban Development and Urban Housing Department, Gandhinagar indicating steps taken by the respondent Corporation to prevent pollution during festival seasons and steps taken to avoid immersion of idols in Tapi River.

[10] Letter dated 10.09.2018 addressed from the office of Surat Municipal Corporation to the Deputy Secretary, Urban Development and Urban Housing Department, Gandhinagar reads as under :-

*“To  
Dy. Secretary Shri  
Urban Development and Urban Housing Department,  
Block No.14, 7<sup>th</sup> Floor,  
Sachivalaya, Gandhinagar.  
E-mail:so-p-ud@gujarat.gov.in*

Sub :- With petition (PIL) no.156/2018  
Surat Citizen Council Trust Vs. Gujarat Sarkar.  
Ref :- (1) Your Letter no.SMN/802018/SCA-223/P,  
Dt.08-09-2018

Respected Sir,

As mention in above subject with reference letter, the details are as follows.

Surat Municipal Corporation has appointed advocate Shri Dhawal Nanavati for above case and also submitted required affidavits in the high court **Annexure-1**.

To keep city of Surat polluted free and keeping in mind the environment importance and other related issues attached with the festive and doing the line with the direction so issued by the Hon'ble High Courts in India and by the Hon'ble National Green Tribunal, New Delhi, Pune and Bhopal the administration of Surat Municipal Corporation has made appeal to the citizens of City of Surat to go and opt for Eco friendly idols of Lord Ganesha, so that those idols can be easily immerse at home or near the pandal- mandap, itself on the day of immersion. It is also appealed to purchase chemical free colour idols made out of clay or natural minerals by avoiding Plaster of Paris. It is also appealed that idols of POP upto 5 feet should strictly be immerse in the artificial ponds which are created and constructed for this very purposes. The Surat Municipal Corporation is encouraging an idea of orgnizing mela for selling eco-friendly idols and/or any such awareness programe. Annexed hereto and marked as **Annexure-2**.

*Surat Municipal Corporation has come out with public awareness programme wherein by using social media the Surat Municipal Corporation is educating the citizens of Surat and also largely and in big way advertising not to purchase Chemical Colour Plaster of Paris idols for worship. The Surat Municipal Corporation is appealing the manufacturers not to manufacturer the Chemical Coloured Plaster of Paris idols which is very harmful to the public and also appealing to the sellers and devotees not to sell or purchase such chemical colour Plaster of Paris idols to protect the environment in public interest and if at all such idols have been purchased they should be immerse only in the artificial ponds so created for this purpose and not to immerse in River Tapi or bank of Sea. Annexed hereto and marked as **Annexure-3** are the copy of such appeal.*

*Surat Municipal Corporation increment in numbers of idols as against 15,275 idols in the year 2015, 21,802 idols in the year 2016 and 30,250 idols in the year 2017 were immersed by the devotees in artificial ponds. It is mentioned that these numbers are of idols of height upto 5 feet and there idols were immersed in 11 Artificial ponds. Annexed hereto and marked as **Annexure-4**.*

*During the present year 2018 there will be an increase in idols compare to the previous years. The Surat Municipal Corporation has made planning accordingly and increase 8 (Eight) or more artificial ponds can be added in those area where rush /flow will be more and this time number of artificial ponds are increased to 19 in number with capacity to immerse around round about 72,100 idols in those 19*



*artificial ponds so created. Annexed hereto and marked as **Annexure-5.***

*Surat Municipal Corporation has made a public appeal to the citizens of Surat to immerse the idol of Lord Ganesha made out of plaster of paris, upto 5 feet height in artificial ponds so created in the different zone in the Surat Municipal Corporation and also appeal to the citizens of City of Surat to purchase and bring ecofriendly idols of Lord Ganesha to their home for worship so that said idols of Lord Ganesha can be immersed at the home and/or at the Pandal – Mandap and other idols made out of plaster of paris can easily be immersed at the artificial ponds by displaying and putting up hoardings, and using electronic and print media.*

*That on day after immersion of the idols the officers and the staff of the Surat Municipal Corporation will segregate the flowers, other stuffs (puja samagri) and avshesh of idols in very religious manner and collected and thereafter avshesh of idols will be transported to the jetty of Essar Company to immerse the reamins in the mid sea. The biodegradable material collected will be disposed of scientifically. For availing jetty services of Essar Company, the Collector, Surat has been requested by the Surat Municipal Corporation and in turn the Collector, Surat procure the services from Essar Company on cooperation and humanitarian grounds. Annexed hereto and marked as **Annexure-6.** are the copy of communication addressed to Collector.*

*Surat Municipal Corporation is required to provide infrastructure like creating artificial ponds and water facilities*

*along with water and approach road by directing and indicating the approach road for easy and smooth moving of the devotees of the Lord Ganesh for immersing the idols in the artificial ponds. Surat Municipal Corporation is also providing Barycading, Mandap, cranes hydra vehicles and other infrastructure for smooth immersion.*

*Surat Municipal Corporation is committed to protect the environment and water pollution from hazardous chemical colour material used in preparing idols with help of Plaster of Paris for which no compromise will be accepted and Surat Municipal Corporation will extend all the necessary cooperation to the Government of Gujarat and its machineries to bring any such restrictions in public interest.*

*Surar Municipal Corporation will cooperate with the other district authorities like District Collector, Commissioner of Police, City of Surat, GPCB and CPCB and also provide the necessary arrangement of artificial ponds for the smooth and easy process of the administration.*

*In coming years also, Surat Municipal Corporation is going to continue construction of artificial ponds of required capacity and adequate numbers of strategic locations in Surat city. Surat Municipal Corporation will also organized mass public awareness campaign in electronic, social and print media for education of public about immersion of POP and chemically coloured idols in river and natural streams.”*

[11] Further, the petitioner has also placed on record guidelines for idol immersion issued by the Central Pollution Control Board in the

month of June, 2010. Relevant general guidelines for idol immersion reads as under :-

*“2.0 GUIDELINES*

*2.1 General Guidelines for idol immersion :*

- (i) Idols should be made from natural materials as described in the holy scripts. Use of traditional clay for idol making rather than baked clay, plaster of paris, etc. may be encouraged, allowed and promoted.*
- (ii) Painting of Idols should be discouraged. In case idols are to be painted, water soluble and nontoxic natural dyes should be used. Use of toxic and non-biodegradable chemical dyes for painting idols should be strictly prohibited.*
- (iii) Worship material like flowers, vastras (clothes), decorating material (made of paper and plastic) etc. should be removed before immersion of idols. Biodegradable materials should be collected separately for recycling or composting. Non-biodegradable materials should be collected separately for disposal in sanitary landfills. Clothes may be sent to local orphan house(s)*
- (iv) Public should be educated on ill effects of immersion in the holy water bodies through mass awareness programme.*
- (v) The ‘Idol Immersion Points’ shall be cordoned off and barricaded. Synthetic liner may be placed in the bottom, well in advance. The said liner shall be removed on completion of immersion ceremony so that remains of idols would be brought to the bank. Bamboo and wooden logs, if any would be reused. Clay, etc may be taken to sanitary land fill for disposal.*

2.2 *General Guidelines for Local Bodies / Authorities:*

- (i) *Local bodies /District Authorities generally make efforts to identify adequate number of designated immersion spots to avoid overcrowding and also to reduce pollution load on water bodies, such spots need to be notified and public & pooja committees be informed of such designated sites through awareness programme preferably a month before such events of idol immersion. All the stakeholders such as River Authority, Port Authority, Water Supply Board, Irrigation Department, etc. be consulted for identification of the Immersion Ghats, where flow in stream is naturally available.*
- (ii) *A co-ordination Committee comprising Police, Non-Government Organizations, Local Authorities, SPCBs, representatives of pooja committees and stakeholders may be set up for guiding the public in carrying out the immersion with minimal impact on water bodies.*
- (iii) *At the immersion sites, burning of solid wastes, so generated comprising of used flowers, clothes, decorating materials, etc. should be prohibited.*
- (iv) *Within 48 hours of the immersion of idols, the left over material at idol immersion points on the banks of rivers, lakes, beaches, etc. should be collected by the local bodies for disposal as per point 2.1. (iii) above.*
- (v) *In case of immersion of idols in rivers and lakes, arrangement may be made for construction of temporary confined ponds with earthen bunds for the purpose of immersion of idols. After the completion of immersion, supernatant water may be allowed to flow in river, pond and lake, as the case may be, after checking for colour and turbidity. Lime may be added in*

*temporary confined ponds.*

- (vi) *The Pooja organizers be involved in a campaign on the ill effects of the toxic components of coloring materials, not only of the idols, but also other decorating materials used during the festive season. Specific leaflets and poster for mass awareness may be prepared and the Pooja committees persuaded to be display such posters and distribute leaflets among worshipers.*

### *2.3 Guidelines for Idol Immersion in Lakes:*

*In case of immersion of idols in lakes or ponds, all the flowers, leaves and artificial ornaments of idols should be removed and idols may be immersed into a corner of pond using removable synthetic liners in the bottom. Post immersion, liners may be taken out along with remains of idols and lime should be added to the pond water for settling the solids. Desludging of the pond should be undertaken afterwards.*

### *2.4 Guidelines for Idol Immersion in Rivers:*

*Temporary ponds having earthen bunds along river bank should be created as idol immersion spots. Removable synthetic liner may be placed well in advance in bottom of pond. The said liner along with remains of idols should be removed from the point within 48 hours of immersion of idols.*

### *2.5 Guidelines for Idol Immersion in Sea:*

*In case of Idol immersion in sea, immersion may be done between low tide line and high tide line (irrespective of its depth). The low-tide line and high tide lines may be identified*

*and marked well in advance. Motor Boats with security personnel/home guards with adequate safety equipments be deployed to supervise the immersion.*

### **3.0 ROLE OF STATE POLLUTION CONTROL BOARDS (SPCBS) & POLLUTION CONTROL COMMITTEES (PCCS)**

- (i) *Concerned SPCB/PCC should conduct water quality assessment of the water body, preferably in Class-I cities (having population more than one lac), at three stages i.e. pre-immersion, during immersion and post immersion. Considering the size of water body, appropriate number of sampling locations may be determined in order to get a fairly representative assessment of water quality. For ascertaining water quality, Physico-chemical parameters such as pH, DO, BOD, COD, Conductivity, Turbidity, TDS, Total Solids and Metals (Chromium, Lead, Zinc and Copper) may be analyzed and results posted on the SPCB's website.*
- (ii) *SPCB/PCC shall help to local administration in preparing material for mass awareness for the purpose.”*

[12] We have heard learned Counsels on both the sides and perused the material placed on record. Request is made by the learned Counsel for the petitioner to dispose of the matter, in view of the ban orders issued by the Surat Municipal Corporation. We are also satisfied with the steps taken by the respondent authorities to prevent pollution due to idol immersion in the Tapi river.

[13] In view of above, we dispose of this Writ Petition (PIL) with the following directions :-

- (i) We place on record, ban orders issued by the Municipal Corporation banning immersion of idols in River Tapi.
- (ii) The respondent authorities to see that immersion of idols in River Tapi and other natural rivers in the State shall not be allowed not only during Ganesh Visarjan, but also on other similar festivals including Durga Puja, Janmashtami, Moharam etc.
- (iii) The Municipal Corporation shall give wide spread publication about artificial ponds created, in different zones for immersion of idols.
- (iv) The respondent Municipal Corporation shall take steps for public awareness programme through newspaper advertisement and electronic media to prevent immersion of idols in River Tapi and other Rivers.
- (v) Ban orders issued by the Municipal Corporation for banning immersion of idols in Tapi River should be communicated to the citizens through print media, by way of news item in all leading newspaper having wide circulation in City of Surat.
- (vi) The respondent authorities to take steps for public awareness programme for manufacturers of idols to

manufacture eco-friendly idols.

- (vii) The respondent authorities shall take all possible steps for implementing guidelines for idol immersion issued by Central Pollution Control Board in June, 2010, for festival of all religious communities.

The Writ Petition (PIL) is disposed of with the directions as indicated above.

(R.SUBHASH REDDY, CJ)

(VIPUL M. PANCHOLI, J)

SATISH

