

**CIVIL APPLICATION (DIRECTION) NO. 1 of 2021  
In R/WRIT PETITION (PIL) NO. 118 of 2020**

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AMIT MANILAL PANCHAL  
Versus  
STATE OF GUJARAT

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Appearance:  
for the PETITIONER(s) No.  
PARTY IN PERSON for the PETITIONER(s) No.  
MR SATYAM Y CHHAYA for the RESPONDENT(s) No.

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CORAM: **HONOURABLE MR. JUSTICE J.B.PARDIWALA**  
and  
**HONOURABLE MR. JUSTICE ILESH J. VORA**

**Date : 29/01/2021**

**IA ORDER**

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

1 By this Civil Application, the applicant (original petitioner) has prayed for the following:

*“A. Direct the Municipal Commissioner, Ahmedabad Municipal Corporation to forthwith produce before this Honourable Court on the day of hearing:*

*i. The complete list of existing and functioning hospital/s and Nursing home/s in the city of Ahmedabad and which are within the jurisdictional limits of the Ahmedabad Municipal Corporation;*

*ii. The complete list of defaulting hospital/s and Nursing home/s in the city of Ahmedabad which are existing and functioning without a valid No Objection Certificate and which are within the jurisdictional limits of the Ahmedabad Municipal Corporation.*

*B. Issue Notice to the said defaulting hospital/s and Nursing home/s which are in the defaulters list which notice be directed to be served immediately by the Municipal Commissioner, Ahmedabad Municipal Corporation, calling upon the defaulters to explain as to why action should not be taken against them, for not complying with the directions issued by this Honourable Court earlier and also by not obtaining valid No Objection Certificate for the hospital concerned, in pursuance of the Public Notice at Annexure – I.*

*C. As a condition precedent, be pleased to direct the defaulting hospital/s and Nursing home/s to whom notice is to be served by the Municipal Commissioner, Ahmedabad Municipal Corporation, for not having a valid No Objection Certificate to pre-deposit an amount that may be found appropriate, by way of exemplary costs for filing appearance and before the defaulting hospital/s and Nursing home/s is heard by this Honourable Court in the present application.*

*D. Direct the opponent No.1 to forthwith and not later than 10 days from the receipt of the Notice of this application to produce before this Honourable Court the list of defaulting hospital/s and Nursing home/s, with a copy to the applicant, which do not have a valid No Objection Certificate from the concerned Fire and Emergency Services Department in the State of Gujarat and under whose jurisdiction such hospital/s and Nursing home/s exist.*

*E. Pass such other and further order/s as may deemed just and proper.”*

2 We have heard Mr. Amit Panchal, appearing in person and Mr. Satyam Chhaya, the learned counsel appearing for the Ahmedabad Municipal Corporation.

3 It appears that pursuant to the various directions issued by this Court vide order dated 15<sup>th</sup> December 2020 in the main matter, the Corporation took up the issue as regards all those hospitals functioning without a valid N.O.C. Mr. Chhaya, the learned counsel has brought to our notice that there are in all 2247 hospitals functioning as on date within the limits of the Ahmedabad Corporation. He further pointed out that on 15<sup>th</sup> December 2020 i.e. the date on which this Court issued various directions in the main matter, there were around 289 hospitals

not possessing a valid N.O.C. According to him, as on date, there are 151 hospitals, which do not possess a valid N.O.C. Mr. Chhaya pointed out that a Public Notice was issued by the Corporation dated 21<sup>st</sup> December 2020 informing all the hospitals to obtain a valid N.O.C. in accordance with the rules and regulations within 15 days, failing which appropriate legal steps would be taken by the Ahmedabad Municipal Corporation against all such hospitals. According to Mr. Chhaya, the time period has expired, and as on date also, there are 151 hospitals, who do not have a valid N.O.C.

4 The picture that emerges, as on date, is that even after the Public Notice was issued by the Corporation referred to above, around 151 hospitals are functioning without a valid N.O.C. It was expected of the Corporation in such circumstances to immediately proceed to take appropriate action against all such erring hospitals in accordance with what has been stated in the Public Notice dated 21<sup>st</sup> December 2020, more particularly, when the Corporation thought fit not to extend the time period in this regard. However, according to Mr. Chhaya, these 151 erring hospitals are trying their best to install the necessary firefighting equipments and comply with the other requirements for the purpose of obtaining a valid N.O.C. from the Ahmedabad Municipal Corporation. Mr. Chhaya would submit that the Corporation is quite confident that if some reasonable time is granted to these 151 hospitals, then they would be able to comply with all the necessary requirements and obtain a valid N.O.C. He would further submit that even otherwise there is a shortage of firefighting equipments in the market and this is one of the reasons that the 151 hospitals have not been able to complete the installation.

5 Mr. Panchal, appearing in person, submits that it is hightime that the Corporation starts taking strict action in accordance with law rather

than granting any further time to these 151 hospitals operating as on date without a valid N.O.C. He submits that God forbid, if any freak accident takes place in one of these 151 hospitals, then who would be responsible for the same. According to Mr. Panchal, whoever may be the owner of each of these 151 hospitals and whoever may be managing the affairs of these hospitals they all are guilty as on date of not complying with the rules and regulations and they could be termed as irresponsible citizens. Mr. Panchal invited the attention of this Court to the observations made by the Supreme Court in the case of **V. M. Kurian vs. State of Kerala and others** reported in (2001) 4 SCC 215 in para 11, which reads thus:

*“Under the Rules, there is restriction with regard to the maximum height of the building. The building should not be constructed exceeding 1.5 times width of the street abutting plus 1.5 times the front yard. Before the High Court, the 5th respondent gave an affidavit that he would convert the ground floor of the building for purposes of car parking. The said affidavit could not have been entertained as the ground floor had already been constructed and let out. Most surprising is that the requirement of having provision towards protection from fire hazards was also dispensed with. The minimum width of the staircase as required under Rule 21(11)(b), also got dispensed with. This shows that the Rules, which are mandatory in nature and are required to be complied with for construction of a high rise building, were allowed to be dispensed with. Observance and compliance of Rules is for public safety and convenience. There cannot be relaxation of Rules, which are mandatory in nature and cannot be dispensed with especially in the case of high rise building. The position may be different in the case of one or two storied building where there are minor deviations from the Rules, which do not effect the public safety and convenience. In the present case, we find that the deviations are of high magnitude, which are contrary to the public safety and convenience. We are, therefore, of the view that the order passed by the State Government exempting the provisions of the Rules for constructing an eight storied building was contrary to the mandatory provisions of the Rules and therefore, is not sustainable in law.”*

6 The main matter i.e. the Writ Petition (PIL) No.118 of 2020 is also on Board today at Serial No.4. Although we are of the view that the

Corporation should have taken appropriate steps by now against all the 151 hospitals in view of the Public Notice issued by it referred to above, yet we would like to grant these 151 hospitals one last opportunity to obtain a valid N.O.C. from the Corporation in accordance with law. Whatever needful has to be done, shall be done by 26<sup>th</sup> February 2021.

7 We direct the Corporation to issue notice to each of these 151 hospitals asking them to obtain the N.O.C. by 19<sup>th</sup> February 2021, failing which appropriate steps shall be taken against such hospitals in accordance with law including prohibiting the management from admitting any patient in the hospital. Let the needful be done by the Corporation at the earliest. These 151 hospitals functioning as on date without a valid N.O.C. have still almost four weeks to comply with the necessary directions.

8 We also direct the respondents to file an appropriate report / affidavit as regards the compliance of various other directions issued by this Court vide order dated 15<sup>th</sup> December 2020. One copy of the affidavit / report as regards the compliance of the directions shall be served by the respondents to the writ applicant on or before 24<sup>th</sup> February 2021.

9 Post this Civil Application along with the main matter i.e. the Writ Petition (PIL) No.118 of 2020 on **26<sup>th</sup> February 2021**.

**(J. B. PARDIWALA, J)**

**(ILESH J. VORA, J)**