

(2000) 02 GUJ CK 0008
In the Gujarat High Court

Case No : Special Civil Application No. 4578 of 1997 & Spl. Civil Application No. 4578 of 1997

Lok Adhikar Sangh

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 17-02-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2000 Guj 280 : (2000) 2 GLR 466

Hon'ble Judges : K.M. Mehta, J;C.K.Thakker, J

Bench : Division Bench

Advocate : Girish Patel, for the Appellant; Govt. Pleader for Respondents 1, 4, 5, K.S. Jhaveri, for Respondents 2-3, Amit M. Panchal, for Respondents 2-3, S.P. Hasurkar, fOR Respondent 4 and K.B. Pujara, for Respondent 6, for the Respondent

Judgement

Thakkar, J.—Rule. We have heard the parties on interim relief.

2. This petition is filed as a Public Interest Litigation (PIL) by Lok Adhikar Sangh for an appropriate writ, direction and/or order directing the respondent authorities to observe fire safety measures in various cinema halls, factories and high rise buildings and to take appropriate action against the erring officers who are responsible for gross violation of rules and regulations. A prayer is also made to create an independent machinery as also monitoring agency representing various sections of people to monitor working of safety measures and for bringing to light violation of rules and regulations. A further prayer is made directing the Chief Fire Brigade Officer of the Corporation to submit immediately a report regarding fire safety measures taken by him.

3. The petition was filed in June, 1997. Notice was thereafter issued and certain interim orders were passed directing the authorities to file affidavits and to place on record what steps were taken by them for adequate fire prevention and protective system. The Court also directed the authorities to issue notices to

violators of rules and regulations directing them to take various steps contemplated by Act and Rules and to take action against erring builders/developers/owners/occupiers of high rise buildings. The Police Commissioner, Ahmedabad was asked to take actions against cinema theatres which were not having sufficient fire safety measures. It was indicated that at the time of issuance of licence or renewal thereof, the police authorities would insist on strict compliance with safety measures.

4. Pursuant to notice issued by this Court as well as further orders from time to time, counter affidavits were filed by the Municipal Commissioner, Town Planning Officer, Chief Fire Officer of the Ahmedabad Municipal Corporation, Deputy Commissioner of Police (Traffic), Deputy Municipal Commissioner and In-charge Chief Inspector of Factories, State of Gujarat.

5. We are happy to note that all the authorities are conscious of problems highlighted in the petition. Even according to them, the questions raised in the petition are really of general public interest. So far as Ahmedabad Municipal Corporation (AMC) and Ahmedabad Urban Development Authority (AUDA) are concerned, they have stated that in most of the high-rise buildings constructed within the municipal limits of the Corporation (AMC) or in AUDA were not having sufficient fire protective system. In the affidavit dated January 27, 1998, filed by B.K. Sinha, the then Municipal Commissioner, it was stated that after the order, dated January 5, 1998 passed by this Court, actions were taken to identify high rise buildings with a view to ascertain whether there were sufficient fire protective systems. It was stated that there were as many as 268 high rise buildings out of which only 2 (two) buildings had adequate fire prevention and protective system and they complied with basic requirements. It was further noticed that some buildings had installed part of fire prevention and protective system, whereas part thereof was not installed. It also came to be seen that some buildings had installed fire preventive system but the same was not made operational. In some high rise buildings, there were only pipes, seeking to give an impression that there was fire protective system but in fact, it was not so. It was stated that several meetings were held by the authorities with owners, developers, builders, contractors and occupiers of high-rise buildings and they were directed to take adequate steps as required to be taken by them. Public notices were also issued which were annexed to the affidavit in reply.

6. Regarding cinema theatres, it was stated that after the order was passed by the Court, the matter was looked into by the authorities and it was found that out of 34 cinema halls situated in the city of Ahmedabad, 19 cinema halls did not have proper fire protective system arrangements. Hence, NOC granted by the Corporation in 1998 was cancelled. Thereafter, certain cinema halls complied with the Rules and Regulations and they were issued NOC.

7. Regarding factories, in the affidavit of Mr. Joshiyara, Incharge Deputy Chief Inspector of Factories, Ahmedabad region, it was stated that more than 3000 factories were situated in the municipal limits of city of Ahmedabad. Factory

Inspectors had visited almost all those factories and tried to find out lapses committed by them relating to fire protection. Prosecutions were launched against 88 factories in competent Court. It was further stated that necessary steps were taken to implement provisions of Factories Act and Rules framed thereunder.

8. We have heard Mr. Girish Patel, Senior Advocate for the petitioners, Mr. A.M. Panchal, learned counsel for Ahmedabad Municipal Corporation and Mr. Joshi, AGP for the State.

Mr. Patel fairly stated after various orders passed by this Court from time to time, certain steps were no doubt taken by the authorities thereafter. They are, however, not sufficient. He urged that this is eminently a fit case in which appropriate directions by way of interim order would serve larger interest. According to him, directions may be issued to authorities in respect of construction of a high-rise building by asking them to scrutinise plans as and when they are submitted to the authorities whether they are in accordance with law. Even after approval of such plans, the authorities may be directed to supervise and monitor construction work at various levels; such as commencement of work, continuation of work, completion of work, etc. He also requested the Court to direct the authorities to issue No Objection as well as occupation certificate only after satisfaction by the authority that all steps required to be taken under the Rules and Regulations were taken in construction of high-rise buildings.

9. Regarding high-rise buildings, which are still incomplete or unoccupied, the authorities may be directed not to grant NOC or occupation certificate till necessary actions are taken.

10. Regarding high-rise buildings which are already constructed and occupied, the counsel submitted that the authorities may be directed to issue notices to contractors/ builders/ owners/occupiers to comply with the requirements of law and on failure, to take appropriate actions against them. Regarding cinema halls, he submitted that it was really surprising how within a very short period, there was compliance by owners/ occupiers of almost all cinema halls and NOC was granted. He, therefore, submitted that the authorities may be asked to ascertain whether in fact necessary steps were taken by them. Since periodical renewal of licence is necessary, the authorities may be directed to continue inspection and not to renew licence unless necessary steps were taken by them.

11. Regarding factories, he submitted that according to him, there are more than 3000 factories. In-charge Deputy Chief Inspector of Factories has relied upon Chapter IV of the Factories Act, 1948 and Rule 66 of the Gujarat Factories Rules, 1963. He, however, has not referred to the relevant and material provisions of Rule 66-A as inserted in 1995 which provides for fire protective system. Mr. Patel, therefore, submitted that necessary directions may be issued to him to ensure compliance with Rule 66A of the Rules.

12. In the facts and circumstances of the case, in our opinion, it would be in the larger public interest if during the pendency and final disposal of this petition, certain directions are issued to the authorities.

(A) High Rise Buildings

(i) Construction of buildings : So far as construction of high-rise buildings is concerned, it is directed that Ahmedabad Municipal Corporation (AMC) and/or Ahmedabad Urban Development Authority (AUDA) will bring to the notice of owners/builders /contractors /developers regarding fire protective system and instalment of fire safety measures. For ensuring compliance of such requirements, the authorities shall carry out periodical inspection of such buildings with a view to confirm that all steps required to be taken under the relevant laws have been taken by the owners/builders/contractors/ developers etc.

(ii) Existing but unoccupied buildings : In respect of high-rise buildings which are existing but still not occupied, the authorities shall not grant NOC or occupation certificate unless and until sufficient fire protective system is installed and made operational by them. The authorities shall strictly enforce the provisions relating to fire protective system before granting occupation certificate.

(iii) Existing and occupied buildings Regarding high rise buildings which are constructed as well as occupied, the authorities shall issue notices to the owners/builders/ contractors/developers/occupiers, etc. asking them to show cause why actions in accordance with law should not be taken against them and remedial measures should not be carried out. The authorities shall prepare necessary time table for such remedial measures with a view to avoid exercise of power to evict occupiers of such high rise buildings.

(B) Cinema Halls

(iv) Regarding cinema halls, authorities shall ascertain whether all steps required to be taken by cinema halls were taken and necessary conditions have been complied with. It is also directed that the authorities shall continue to monitor cinema halls and no renewal of licence shall be granted unless adequate protective measures have been taken by them.

(C) Factories

(v) In case of factories, the authorities shall keep in mind Section 38 of the Factories Act, 1948 read with Rule 66A of the Gujarat Factories Rules, 1963 and other relevant provisions and they shall insist compliance with those provisions.

13. The office will place for hearing in first week of April 2000.