

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/WRIT PETITION (PIL) NO. 38 of 2023**

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AZAJKHAN HAMIDKHAN PATHAN  
Versus  
STATE OF GUJARAT

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**Appearance:**

MR.PERCY KAVINA, LD. SENIOR ADVOCATE with MR KR KOSHTI(1092)  
for the Applicant(s) No. 1

MS.MANISHA LAVKUMAR, LD. GOVERNMENT PLEADER with MS.SHRUTI  
PATHAK, AGP for the Opponent(s) No. 1

NOTICE SERVED BY DS for the Opponent(s) No. 2

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE MR.  
JUSTICE A.J.DESAI  
and  
HONOURABLE MR. JUSTICE BIREN VAISHNAV**

**Date : 21/04/2023**

**ORAL ORDER**

**(PER : HONOURABLE THE ACTING CHIEF JUSTICE MR. JUSTICE  
A.J.DESAI)**

1. The present petition in the nature of Public Interest has been filed under Articles 14, 16, 19, 21, 25 and 226 of the Constitution of India, requesting to issue appropriate writ, order and/or direction directing the respondent State Authorities that Home Department, State of Gujarat as well as Director General of Police to take appropriate steps when different festivals

celebrated by variety of people who follow different religions in the State of Gujarat and taking out procession and at that time to take preventive measures so as to avoid various types of conflicts which may arise between different parcels of people who are following different religions.

2. The prayers made in the petition read as under:

*“A. THIS HON’BLE COURT MAY BE PLEASED TO issue appropriate writ, order and direction and thereby be pleased hold the action or inaction of the Respondent authorities in not prevent the incidents of communal violence/religious rioting at the different places of State of Gujarat as Annexure - ‘C’ to this petition.*

*B. Your Lordships may be pleased to issue a writ of mandamus or any other appropriate writ/order/direction to quash and set aside the action or inaction on the part of State in not making sufficient/appropriate strict security arrangement and not carried out the videography of any event like rally, juloos and procession at the time of festival and other functions.*

*B(i) Your Lordships may be pleased to direct the Respondent authorities to make strict security arrangement and also carried out the videography of every event like any religious functions, rally or processions for upcoming events and festivals in the interest of justice.*

*C.THIS HON'BLE COURT MAY BE PLEASED TO direct the Respondent no.2 to submit the status report about the proceedings in respect of representation dtd.5/4/2023 filed by the Petitioner in the interest of justice."*

3. In response to the notice issued by this Court, the Superintendent of Police (Law and Order) who is working in the office of the Director General of Police has filed an affidavit in reply dated 20.04.2023. A copy thereof was supplied to the learned advocate for the petitioner on 20.04.2023. So as per the request made by the learned advocate for the petitioner, the matter has been kept today for hearing.

4. Mr.Percy Kavina learned Senior Counsel assisted

by Mr.K.R.Koshti would submit that he has gone through the affidavit in reply filed on behalf of respondent nos.1 and 2 and has more or less agreed with facts narrated in the affidavit. However, he would submit that in certain festivals, the processions have a fixed route and such processions are being organized by different people following different religions. Some instances of mob-lynching take place which disturbs the communal harmony of the area through which the processions are being taken out by the people and therefore more vigilance is required to be made at the instance of the State Authorities and therefore appropriate orders may be passed.

5. On the other hand, learned Government Pleader Ms.Manisha Lavkumar has taken us through the affidavit in reply and submitted that sufficient

steps have been taken by the authorities to avoid such mob-lynching or any communal disturbance. She would submit that the State Authorities are aware about all the festivals which are being celebrated throughout the year by the people following different religions and therefore all the police stations have been informed to take precautionary measures. She would submit that the authorities are following the directions issued by the Hon'ble Apex Court in case of ***Tehseen S. Poonawalla v. Union of India and others*** rendered in ***Writ Petition (Civil) No.754 of 2016*** dated 17.07.2018. She would submit that during the period of 2018 to 2023 in different parts of the State of Gujarat viz. at Himmatnagar and Khambhat, communal riots took place in which immediately FIRs were recorded against various persons and they were arrested. She would further submit that the

State Authorities are deploying not only local police, but, they are taking assistance from the State Reserve Police Force (SRPF) and the same helps to keep peace during such festivals. Cameras have also been installed at the various places. She would submit that the places of congregation have also been earmarked and even monitoring the social platforms with the help of cybercrime police stations is also undertaken. The CCTV cameras have been installed at various places. In addition thereto, the Body Worn Cameras would be issued to the concerned officers and additional videographers have also been permitted at the concerned police stations where such festivals are celebrated and processions or congregations in the streets in the respective city and towns. She has also stated that she assures this Court that the State Authorities shall keep the force vigilant through

out the processions and more particularly when the processions are taken out in the streets of the city or town.

6. We have heard learned counsel for the respective parties.

7. Though several statements have been made about inaction on part of the State Authorities, we have gone through the affidavit filed by the Superintendent of Police (Law and Order) from the office of the Director General of Police, State of Gujarat. The allegations have been denied. However, the Court is concerned with the steps already taken by the State Authorities and instructions issued by the Police Department to concerned police officers to take appropriate steps in forthcoming Ramzan-Eid and Parshuram Jayanti festivals.

8. Paragraph nos.4.6 and 4.7 deal with the compliance of the order passed by the Hon'ble Apex Court in case of **Tehseen S. Poonawalla** (supra). The said paragraphs read as under:

*“4.6 The Hon'ble Supreme Court in the judgment in the case of Tehseen Poonawala versus Union of India had issued certain directions to deal with mob lynching and violence in connection with Writ Petition (Civil) No. 754/2016 (TehseenS. Poonawala v/s Union of India). Apropos to the directions issued by the Hon'ble Supreme Court, detailed instructions have been given by Director General of Police, Gujarat State to field units to prevent mob lynching and violence.*

*4.7 Additional Director General of Police, CID (Crime & Railways), Gujarat State has been appointed as the State Level Nodal Officer and the Commissioners of Police/Superintendents of Police are appointed as City/District Nodal Officers. They collect intelligence, take preventive measures and respond to incidents of violence. The State Level Nodal Officer compiles data regarding incidents of violence and issues advisories for preventing recurrence of such incidents.”*

9. Action taken pursuant to communal disturbances

from 2018 to 2023 narrated in paragraph nos.4.8 to 4.11 of the reply, read as under:

*“4.8 There were 7 major communal riots during the period 2018-23 and the concerned City/District Police Units have responded to such incidents to disperse the violent mob, registered criminal cases and arrested the persons responsible for the same. The local police has intervened swiftly in case of communal incidents and communal tensions to take control of the situation, localise the violence and to prevent it from taking shape of major communal riot.*

*4.9 With respect to the communal incidents which took place at Himmatnagar, District: Sabarkantha and Khambhat, District: Anand on 10/04/2022 during Ram Navami celebrations, it is required to be highlighted that the local police had made security arrangements under the leadership of jurisdictional Superintendents of Police of during the above processions. However, certain criminal elements had indulged in slogan shouting, stone throwing and arson. The State Police Headquarters had deployed additional contingents of State Reserve Police Force (SRPF) and had mobilised Rapid Action Force (RAF) from Ministry of Home Affairs, Govt. of India to quell the violence swiftly.*

*4.10 Four criminal cases were registered and 185-persons were arrested in*

*connection with the incidents at Himmatnagar. As regards the incident which took place at Khambhat, two criminal cases were registered and 93-persons were arrested. It would be apposite to bring it to the notice of the Hon'ble Court that on account of these past communal disturbance which took place last year, elaborate security arrangements were made during Ram Navami celebrations on 30/03/2023 in view of the communal sensitivity of the same. Notably, the event passed off peacefully with no untoward incident having being reported.*

*4.11 As regards to the incidents which took place at Vadodara City and Gir-Somnath, the District Police had made security arrangements during Ram Navami celebrations on 30/03/2023. However, certain criminal elements had indulged in slogan shouting and stone throwing. The local police had responded to the incidents and had taken immediate control of the situation to prevent arson and violence. The State Police Headquarters had deployed additional contingents of police officers and State Reserve Police Force (SRPF) as reinforcement. Four criminal cases were registered and 67-persons were arrested in connection with the incidents in Fatehpura Police Station at Vadodara City and two criminal cases were registered and 97 persons were arrested in connection with incidents at Una, District: Gir-Somnath. At present, the situation is under control and confidence building measures (CBM) have*

*been taken for restoring normalcy in the area.”*

10. In response to the representation made by the petitioner, the Superintendent of Police has declared as under:

*4.12 Apropos to the representation addressed by the petitioner to the Police Authorities regarding security arrangements to be made during the Eid-ul-Fitron is concerned, a communication is sent on 11.04.2023 by the Superintendent of Police (Law & Order), Gujarat State to all the City/District/GRP Units with instructions to make security arrangements based on the local requirements. It is reiterated that the Gujarat Police carries out a detailed planning for the peaceful conduct of various festivals and annual events during the year. The holy month of Ramzan is being celebrated from 22/03/2023 and it will culminate in the celebration of Eid-ul-Fitron 22/04/2023. The festival of Parashuram Jayanti is also being celebrated on 22/04/2023. The authorities have identified sensitive places and worked out a plan to reinforce the forces by deploying contingents of State Reserve Police Force (SRPF).*

*4.13 Following instructions have been issued to the City/Districts in connection with Eid-ul-Fitr and*

*Parashuram Jayanti to be celebrated on 22/04/2023.*

*Co-ordination with local leaders:-*

*Instructions are issued to coordinate with religious leaders regarding various events scheduled as part of celebrations and to carry out a detailed threat assessment. It includes joint visit of places of congregation, procession routes and other important places to sanitise the places/routes with Municipal Authorities and Executive Magistracy assess the security risks, work out the deployment plan etc.*

*Preventive actions against criminals with previous history and potential trouble makers:*

*Under the powers exercisable under the Criminal Procedure Code, 1973; the Gujarat Police Act, 1951; the Prevention of Anti-Social Activities Act, 1985 and the Gujarat Prohibition Act, 1949 instructions have been issued to take preventive measures against the criminals who have past criminal records and history and potential head strong persons who would cause troubles.*

*Identify places of congregation and procession routes common to or intersection points of Eid-ul-Fitr and Parashuram Jayanti:*

*Instructions have been issued to identify the places of congregation and procession routes which are common for both the procession and festivities of Eid-Ul-Fitr as well as Parshuram*

*Jayanti. Further it is instructed to coordinate with religious leaders, community leaders, elected people's representatives, members of peace committees, members of moholla committees and other eminent citizens to maintain peace and order during the celebrations. The local police may position key community leaders at important locations to prevent any conflicts between communities.*

*Monitoring the social media platforms with the help of Cybercrime Police Stations:*

*With a view to prevent spread of rumours, mongering and posting of objectionable contents and to take firm action against offenders, the Cyber Crime Police Stations have been geared up to monitor the social media platforms and to remove objectionable contents in coordination with stakeholders*

*Ban on Usage of Public Address System, Loud Speakers, DJs, etc:*

*Instructions have been issued to inform to all the organisers and the participants regarding not to use objectionable content through Public Address System/DJs/Loud Speakers during processions.*

*Deploying Police/SRPF/Home Guards/Gram Rakshak Dal (GRD):*

*The requisite number of personals including police, SRPF, Home Guards, Gram Rakshak Dals are to be deployed at religious places, communally*

*sensitive locations and to step up Police Patrols covering important areas. Further the responsibility is also fixed on the concerned SHO/SDPO/ACP/DCP/SP/Addl. CP/Jt. CP responsible for areas/events depending on the threat assessments and local requirements. In addition thereto, Police/SRPF/Home Guards/Gram Rakshak Dal (GRD)/Traffic Brigade (TRB) are to be deployed at important traffic junctions to divert traffic/manage traffic for ensuring smooth movement of the processions*

*Communication to the local residents and community members:*

*Instructions are issued to the police officers to communicate with the local residents, community members and commuters regarding traffic diversion plans, events scheduled etc. through print/electronic/social media.*

*Usage of Drone Camera Systems and videographers:*

*It is further intimated to make use of Drone Camera Systems for carrying out advance survey of places of congregation and procession routes and to make ample usage of CCTV Cameras to keep monitoring over the event. In addition thereto, the Body Worn Cameras would be issued to the concerned officers with a view to monitor the movement and to identify trouble makers. Moreover, the local police have also been instructed to deploy additional videographers*

*according to their requirements in their respective jurisdictions during processions or congregations. These instructions have been issued specifically with a view to keep a tab on the congregations/processions and to monitor CCTV Cameras/ Body Worn Cameras from the Command & Control Centers.*

*To Keep striking reserves at strategic locations:*

*Directions are issued to keep reserves at the strategic locations well equipped with vehicles, lathi-helmets, body protectors, tear smoke ammunitions, rubber bullets, VARUN (water cannon), VAJRA (automatic tear smoke launch vehicle), communication systems under the leadership of PSI/PI/Dy.SP/SP to respond to any incident and to take control of situation.*

11. Considering the above affidavit, we are satisfied with the action taken by the State Authorities. However, we are sure that the State Authorities shall continue to issue similar type of instructions referred in paragraph nos.4.12 to 4.13 of the affidavit in reply in all such festivals.

12. In view of the above, petition is disposed of.  
Notice is discharged. Direct service **today** is permitted.

**(A.J.DESAI, ACJ)**

**(BIREN VAISHNAV, J)**

ANKIT SHAH