

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
(DIST: AHMEDABAD)
WRIT PETITION (PUBLIC INTEREST LITIGATION) NO.
OF 2020

Harshit Indravadan Shah ...Petitioner

Vs

State of Gujarat and another ... Respondent

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**WRIT PETITION (PUBLIC INTEREST LITIGATION) NO.
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...Petitioner

Vs

State of Gujarat and another

... Respondent

SYNOPSIS

The petitioner is citizen of India. The present respondent No. 2 passed a circular on 06/05/2020 in which he passed an order to shut down all shops including shops and vendors of vegetables and groceries in entire Ahmedabad except for milk and medicine to be implemented from 07/05/2020, 00:00 hours till 15/05/2020. The order via the circular was passed around 5 pm in the evening on 06/05/2020 and as per the previous order of Central Govt. all shops were supposed to close at 7:00 pm during 3rd phase of Lockdown hence, all the shops were even otherwise supposed to be closed at 7:00 pm on the same day. The result of such sudden order and circular was such that , "n" number of people who are residing in Ahmedabad came down on streets and crowded the vegetable shops, grocery stores etc. The people had no choice as the Ld. Municipal commissioner(Present respondent no. 2) had not provided any other remedy for the people residing in

Ahmedabad for availability of food (Vegetable/fruits/groceries etc) whose availability was to be shut down from the mid-night. As a result of such sudden rush of thousands of people to market the norms or social distancing and lockdown were completely broken and large number of crowd and groups gathered at different places in the entire city. Even after standing for hours in line in the market the people were not able to get access to food and necessary items or commodities from the market and they had to risk their life by going to market unnecessarily because of careless actions on part of respondent no. 2 which has caused a great deal of mental as well as physical harassment to the people.

Hence this petition.

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(DIST: AHMEDABAD)

WRIT PETITION (PUBLIC INTEREST LITIGATION) NO.

OF 2020

Harshit Indravadan Shah

...Petitioner

Vs

1. State of Gujarat

Notice to be served through Chief Secretary

Govt. of Gujarat, Sachivalaya,

Gandhinagar

(advance copy served to the Id. GP by email)

2. **Shri Mukesh Kumar**

The Commissioner

Ahmedabad Municipal Corporation

Ahmedabad

... Respondents

**PETITION UNDER ARTICLE 21 and 226 OF THE
CONSTITUTION OF INDIA FOR ISSUANCE OF A
WRIT/GUIDELINES/DIRECTIONS IN THE NATURE OF
MANDAMUS OR ANY OTHER WRIT UNDER THE ARTICLE
226 OF THE CONSTITUTION OF INDIA, IN THE LARGER
PUBLIC INTEREST REGARDING THE ISSUE OF
LOCKDOWN DURING COVID-19 EPIDEMIC.**

To,

The Hon'ble the Chief Justice & other
Hon'ble Judges of the High Court of
Gujarat At Ahmedabad.

The petitioner above
named:

MOST RESPECTFULLY SHEWETH THAT:

**1. THE DECLARATION, DISCLOSER AND STATEMENTS
AS PER THE HIGH COURT OF GUJARAT (PRACTICE
AND PROCEDURE FOR PUBLIC INTEREST
LITIGATION), RULES 2010.**

The present petition under Articles 226 of the
Constitution of India read with Article 21 of the
Constitution of India is being filed by way of public
interest litigation and the petitioner has no personal

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[Handwritten Signature]

interest. The petition is being filed in the interest of public at large as they are affected by the action/negligence of the respondents more particularly respondent no. 2.

2. ABOUT THE PETITIONER AND THE RESPONDENTS:

The petitioner is a lawyer practicing in Gujarat and is also an social activist respondents are state and state authority.

3. THE PETITION IN THE PUBLIC INTEREST AND THE COST OF LITIGATION:

That the petitioner is filling the present petition purely in the public interest on its own cost and not at the instance of any other person or organization, the litigation cost, including the advocate fees and the traveling expenses are being borne by the petitioner himself.

4. THAT THE FACTS OF THE CASE IN BRIEF ARE AS FOLLOWS:

4.1 That, the petitioner is a resident of Ahmedabad and is bound by the order and circulation passed by the Ahmedabad Municipal Commissioner (Present respondent no. 2).

4.2 That, the present respondent No. 2 passed a circular on 06/05/2020 in which he passed an order

to shut down all shops including shops and vendors of vegetables and groceries in entire Ahmedabad except for milk and medicine to be implemented from 07/05/2020, 00:00 hours till 15/05/2020. A copy of order dated 06/05/2020 is annexed herewith and marked as "**Annexure-A**" to this petition.

- 4.3 That, the order via the circular was passed around 5 pm in the evening on 06/05/2020 and as per the previous order of Central Govt. all shops were supposed to close at 7:00 pm during 3rd phase of Lockdown hence, all the shops were even otherwise supposed to be closed at 7:00 pm on the same day.
- 4.4 The result of such sudden order and circular was such that , "n" number of people who are residing in Ahmedabad came down on streets and crowded the vegetable shops, grocery stores etc.
- 4.5 That, the people had no choice as the Ld. Municipal commissioner(Present respondent no. 2) had not provided any other remedy for the people residing

in Ahmedabad for availability of food (Vegetable/fruits/groceries etc) whose availability was to be shut down from the mid-night.

- 4.6 That, in adherence to lockdown imposed by Central Govt. the people did not have enough stock of food items at home to make it last for a week without any remedy or other sources.
- 4.7 That, the Central Govt. through the Ld. Prime Minister had appealed the people of the nation not to keep the stock of food, vegetables, dairy products and groceries etc in storage at large as it would be made available to all the people throughout the lockdown and thus people duly believed and followed the appeal of Ld. Prime Minister and thus they did not have enough storage of food.
- 4.8 That, most of the people residing in Ahmedabad are middle class people and thus they would not have enough resources or access to storage of food items that could last for a week and thus they had

to come down on streets to purchase the necessary items.

- 4.9 That, as a result of such sudden rush of thousands of people to market the norms or social distancing and lockdown were completely broken and large number of crowd and groups gathered at different places in the entire city.
- 4.10 That, even after standing for hours in line in the market the people were not able to get access to food and necessary items or commodities from the market and they had to risk their life by going to market unnecessarily because of careless actions on part of respondent no. 2 which has caused a great deal of mental as well as physical harassment to the people.
- 4.11 That, the situation has not occurred for the 1st time. When the lockdown was announced by our respected Prime Minister Shri Narendra Modiji, on 24th of March 2020, it was also announced late evening i.e 8:00pm which did not give time to the



migrants/labours etc to travel to their hometown and thus thousands of people had gathered at that time also.

4.12 Furthermore, when the lockdown was extended even then it was not notified in advance and was sudden order and implementation and thus again a huge number of people were seen gathered at different places.

4.13 Furthermore, even in the latest direction issued by the present respondent no. 2, the appropriate time period was not provided to the people to make necessary arrangements and it was sudden order and implementation as a result of which again large number of people were seen to have gathered.

4.14 It is to be noted that, at such time when there is a threat of spread of coronavirus or Covid -19, which has been declared as a pandemic by WHO as well as recognized by the Govt. of India, such sudden order and implementation without any remedy creates more fear and threat to the people.

Moreover, such an action on part of present respondent no. 2 has opened the scope of spread of coronavirus at large scale in the city of Ahmedabad and the threat of being affected by such deadly virus has increased at a very large scale in Ahmedabad which is harmful to lives of people.

4.15 Furthermore, it has recently come into knowledge of petitioner that, even though the Ld. Prime Minister, Ld. Health Minister and other govt. officials and agencies have time and again declared that there are sufficient beds made in order to admit and treat the corona virus patients but there are many patients who were declined even entry in the grounds of hospital and they were asked to be home quarantined even though they were found as Covid-19 positive. A video of such 25 people which was created and sent to media as were as shared on social media is attached herewith.

4.16 In such a situation where the medical facilities are yet not sufficient, the sudden non required and

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unnecessary actions on part of respondent authorities are creating a greater risk on the lives of people at large.

4.17 That, in many parts of the city it has been noted on basis of news reports that even though the collector had given permission, the police personnel were using 'Lathi' against the person which is completely unauthorized and illegal.

5. QUESTION OF LAW

- I.** Whether the state machinery has failed to perform its duty properly?
- II.** Whether the state machinery has failed to protect and provide a safe and secure life to its people?
- III.** Whether the actions of state machinery increased threat to life of its people?
- IV.** Whether such an hasty order without granting sufficient time and resources to the people amounts undue harassment to the people at large?

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6. GROUNDS

- 1) The actions of respondent authorities are completely illegal, arbitrary and unreasonable.
- 2) The actions of state are completely in gross violation of Article 21 of the Constitution of India.
- 3) The action of respondent no. 2 has created a gross threat to life and livelihood of people of Ahmedabad.
- 4) That, the respected Prime Minister of our nation had urged people that essential commodities will be made available to all the people and thus there is no need for storage of food and thus the people had not stored the food items and necessities as a result of which people had to run to the market in short period of time to purchase the necessary commodities which created gross hardship to the people and also increased the threat of spread of coronavirus.



- 5) That, the people were not given sufficient or appropriate time period to purchase and store the necessary commodities and thus it created undue and unnecessary fear, threat and hardship in the minds of people.
- 6) That, no grounds or basis or parameters or criteria were declared by the govt. or the respective state authorities for making such hasty and immediate decisions and passing such strict orders which hampers the lives and livelihood of its people.
- 7) That, non-availability of appropriate medical facilities to its people also increases the spread of covid-19 which is a danger to life of other citizens.
- 8) That, the treatment available in private hospital are way to expensive and thus most of the people may not be able to avail the same and thus they have to rely on govt.

medical facilities only to get treatment of covid 19.

- 9) That, in many parts of the city it has been noted on basis of news reports that even though the collector had given permission, the police personnel were using 'Lathi' against the person which is completely unauthorized and illegal.
- 10) That, the police are classified in two categories i.e armed and unarmed police and most of the constables are unarmed police officers however, they still keep 'Lathi'(Sticks) with them which is violation of proclamation of the collector for armed prohibition under section 135 of the GP Act and such unarmed police constable who are carrying 'lathi', which is identified as a weapon are also liable under the said provision.
- 11) That, the respondent authorities have failed to dispense with their duties in its true

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spirit and thus are causing unnecessary difficulty and harm to the people.

12) That, the respondent authorities have created a great negligence in dispensing its duty and protecting its citizen.

7. The petitioner has not filed any other appeal or application either before this Hon'ble Court or before any other Court on the same subject matter of this petition. However, the petitioner has heard about a suo moto petition being Writ Petition (PIL) No. 42 of 2020 which is pending before this Hon'ble High Court which is similar to this petition.

8. The petitioner has no other alternative or efficacious remedy but to approach this Hon'ble Court by way of this petition.

9. In view of the above petition, the petitioner most respectfully prays that:

A. YOUR LORDSHIP BE PLEASED TO *admit this petition;*

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B. YOUR LORDSHIP BE PLEASED TO *allow this petition by way of issuing writ in the nature of mandamus or any other appropriate writ, order or direction against the respondent authorities directing them to give appropriate time and alternative remedy before passing such orders and it should not be sudden implementing in nature; FURTHERMORE*

YOUR LORDSHIP BE PLEASED TO *quash and set aside the order dated 06/05/2020 passed by the respondent no. 2 (Annexure - A) and liberty may be reserved to pass fresh order after giving sufficient time and opportunity to people at large for making necessary arrangement and storage of essential food items (Vegetables/groceries/fruits etc) during operation of such order.*

C. YOUR LORDSHIPS BE PLEASED TO *hold and declare that the respondent authorities*

more particularly respondent no. 2, shall solely be liable of the resultant spread of coronavirus or Covid-19 virus which would have or will spread due to large crowd gatherings in different part of city due to unnecessary and arbitrary order dated 06/05/2020 passed by the respondent authorities without giving sufficient time to people to get essential and necessary food items (Vegetables/fruit/groceries etc);

D. YOUR LORDSHIP BE PLEASED TO direct the respondent authorities to create sufficient medical facilities as well as testing facilities for the people suffering from coronavirus or Covid - 19 virus or having some symptoms of the same.

E. YOUR LORDSHIP BE PLEASED TO direct the respondent authorities to restraint the police personnel in using physical violence or inflicting lathi blows upon innocent people that

too while people were in search of necessary food items, grocery etc since the order of respondent no. 2 was to come into execution within short span of time after which the essential commodities were to be made unavailable in market;

F. YOUR LORDSHIP BE PLEASED TO direct the respondent authorities to register offence and to take appropriate action against the airing police personnel who are keeping weapon like lathi with them though they are in the category of unarmed police during the implementation of weapon prohibition proclamation of collector;

G. YOUR LORDSHIP BE PLEASED TO dispense with the affidavit of petitioner since the present petition is filed by e-filing. However, the petitioner undertakes to file appropriate affidavit after the situation becomes normal;

H. YOUR LORDSHIP BE PLEASED TO *dispense with the filing of certified copy of Annexure-A and other office objections which may be raised by the registry since the present petition is filed by e-filing at this stage, however, the petitioner undertakes to remove all the office objection after the situation becomes normal;*

I. YOUR LORDSHIP BE PLEASED TO *pass any appropriate and just order in the larger interest of Justice;*

AND FOR THIS ACT OF KINDNESS AND JUSTICE THE PETITIONER SHALL AS IN DUTY BOUND FOR EVER PRAY.

Ahmedabad

07/05/2020


(NEEL LAKHANI)

(Advocate for Petitioner)