

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/WRIT PETITION (PIL) NO. 170 of 2017****With****CIVIL APPLICATION NO. 1 of 2017****With****CIVIL APPLICATION NO. 2 of 2018****With****CIVIL APPLICATION NO. 3 of 2017****With****CIVIL APPLICATION NO. 3 of 2018****With****CIVIL APPLICATION NO. 5 of 2018****With****CIVIL APPLICATION NO. 6 of 2018****With****CIVIL APPLICATION NO. 7 of 2018****With****R/LETTERS PATENT APPEAL NO. 541 of 2017****In****SPECIAL CIVIL APPLICATION NO. 12512 of 2016****With****R/WRIT PETITION (PIL) NO. 199 of 2017****With****R/WRIT PETITION (PIL) NO. 230 of 2016****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE M.R. SHAH****and****HONOURABLE MR.JUSTICE A.Y. KOGJE**

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	
2	To be referred to the Reporter or not ?	
3	Whether their Lordships wish to see the fair copy of the judgment ?	
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	

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MUSTAK HUSSAIN MEHNDI HUSSAIN KADRI
Versus
STATE OF GUJARAT

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Appearance:

WPPIL 170/2017

MR AMIT M PANCHAL(528) with MR SIDDHARTH M JHA with MR
ANGESH A PANCHAL for the PETITIONER(s) No. 1

MS MANISHA LAVKUMAR, GOVERNMENT PLEADER(1) with MR
PRANAV TRIVEDI, ASSISTANT GOVERNMENT PLEADER for the
RESPONDENT(s) No. 1

MR KAMAL TRIVEDI, SENIOR ADVOCATE with MR SATYAM Y
CHHAYA(3242) for the RESPONDENT(s) No. 2,3,4,5

Civil Application No.1/2017

MR AJ YAGNIK for the APPLICANT(s) No.1

MS MANISHA LAVKUMAR, GOVERNMENT PLEADER(1) with MR
PRANAV TRIVEDI, ASSISTANT GOVERNMENT PLEADER for the
RESPONDENT(s).

MR KAMAL TRIVEDI, SENIOR ADVOCATE with MR SATYAM Y
CHHAYA(3242) for the RESPONDENT(s)

MR AMIT M PANCHAL(528) with MR SIDDHARTH M JHA with MR
ANGESH A PANCHAL for the RESPONDENT(s)

Civil Application No.2/2018

MR AMIT M PANCHAL(528) with MR SIDDHARTH M JHA with MR
ANGESH A PANCHAL for the APPLICANT(s) No. 1

MS MANISHA LAVKUMAR, GOVERNMENT PLEADER(1) with MR
PRANAV TRIVEDI, ASSISTANT GOVERNMENT PLEADER for the
RESPONDENT(s).

MR KAMAL TRIVEDI, SENIOR ADVOCATE with MR SATYAM Y
CHHAYA(3242) for the RESPONDENT(s)

Civil Application No.3/2017

MR KAMAL TRIVEDI, SENIOR ADVOCATE with MR SATYAM Y
CHHAYA(3242) for the APPLICANT(s)

MR AMIT M PANCHAL(528) with MR SIDDHARTH M JHA with MR
ANGESH A PANCHAL for the RESPONDENT(s)

MS MANISHA LAVKUMAR, GOVERNMENT PLEADER(1) with MR
PRANAV TRIVEDI, ASSISTANT GOVERNMENT PLEADER for the
RESPONDENT(s).

Civil Application No.3/2018

MR NM KAPADIA for the APPLICANT(s)

MR AMIT M PANCHAL(528) with MR SIDDHARTH M JHA with MR

ANGESH A PANCHAL for the RESPONDENT(s)
MS MANISHA LAVKUMAR, GOVERNMENT PLEADER(1) with MR PRANAV TRIVEDI, ASSISTANT GOVERNMENT PLEADER for the RESPONDENT(s).
MR KAMAL TRIVEDI, SENIOR ADVOCATE with MR SATYAM Y CHHAYA(3242) for the RESPONDENT(s)

Civil Application No.5/2018

MR VISHAL T PATEL for the APPLICANT(s)
MR AMIT M PANCHAL(528) with MR SIDDHARTH M JHA with MR ANGESH A PANCHAL for the RESPONDENT(s)
MS MANISHA LAVKUMAR, GOVERNMENT PLEADER(1) with MR PRANAV TRIVEDI, ASSISTANT GOVERNMENT PLEADER for the RESPONDENT(s).
MR KAMAL TRIVEDI, SENIOR ADVOCATE with MR SATYAM Y CHHAYA(3242) for the RESPONDENT(s)

Civil Application No.6/2018

MR YATIN SONI for the APPLICANT(s)
MR AMIT M PANCHAL(528) with MR SIDDHARTH M JHA with MR ANGESH A PANCHAL for the RESPONDENT(s)
MS MANISHA LAVKUMAR, GOVERNMENT PLEADER(1) with MR PRANAV TRIVEDI, ASSISTANT GOVERNMENT PLEADER for the RESPONDENT(s).
MR KAMAL TRIVEDI, SENIOR ADVOCATE with MR SATYAM Y CHHAYA(3242) for the RESPONDENT(s)

Civil Application No.7/2018

MR PRITHU PARIMAL for the APPLICANT(s)
MR AMIT M PANCHAL(528) with MR SIDDHARTH M JHA with MR ANGESH A PANCHAL for the RESPONDENT(s)
MS MANISHA LAVKUMAR, GOVERNMENT PLEADER(1) with MR PRANAV TRIVEDI, ASSISTANT GOVERNMENT PLEADER for the RESPONDENT(s).
MR KAMAL TRIVEDI, SENIOR ADVOCATE with MR SATYAM Y CHHAYA(3242) for the RESPONDENT(s)

Letters Patent Appeal No.541/2017

MR JV JAPPEE for the APPLICANT(s)
MR BY MANKAD for the RESPONDENT(s)

Writ Petition No.230/2016

MR NM KAPADIA for the APPLICANT(s)
MS MANISHA LAVKUMAR, GOVERNMENT PLEADER(1) with MR PRANAV TRIVEDI, ASSISTANT GOVERNMENT PLEADER for the RESPONDENT(s) No.1

MR DIPAK N JOSHI for the RESPONDENT(s) No.3
 MR KAMAL TRIVEDI, SENIOR ADVOCATE with MR SATYAM Y
 CHHAYA(3242) for the RESPONDENT(s) No.4

Writ Petition No.199/2017

MR MUKESH N VAIDYA for the APPLICANT(s) No.1, 2
 MR AADITYA D BHATT for the APPLICANT(s) No.1, 2
 MS MANISHA LAVKUMAR, GOVERNMENT PLEADER(1) with MR
 PRANAV TRIVEDI, ASSISTANT GOVERNMENT PLEADER for the
 RESPONDENT(s) No.1
 MR KAMAL TRIVEDI, SENIOR ADVOCATE with MR SATYAM Y
 CHHAYA(3242) for the RESPONDENT(s) No. 2, 4
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CORAM: **HONOURABLE MR.JUSTICE M.R. SHAH**
 and
HONOURABLE MR.JUSTICE A.Y. KOGJE

Date : 07/08/2018

ORAL JUDGMENT
(PER : HONOURABLE MR.JUSTICE M.R. SHAH)

[1.0] Today when the present petitions are taken up for further hearing, Shri Kamal Trivedi, learned Senior Advocate appearing on behalf of the respondent – Ahmedabad Municipal Corporation has submitted that after the earlier detailed directions are issued by this Court to tackle with the problem of stray cattle on the public road, Ahmedabad Municipal Corporation has taken the following steps;

- (i) Cattle impounding operation is intensified by increasing number of teams and decentralizing operations;
- (ii) Now work is being done 24 x 8;
- (iii) Daily 110-115 cattle are being impounded compared to 50-60 earlier;
- (iv) Rs.10 lakh is sanctioned for minor repairs at Panjrapole;
- (v) Rs.35 lakh is sanctioned for building sheds at

- Behrampur Cattle Pound to shelter the increase intake;
- (vi) More teams are being put in place;
 - (vii) Penalty increase proposal is approved by the Standing Committee and implemented (Rs.1000/- to Rs.3000/-);
 - (viii) Daily upkeep charges is doubled from Rs.500/- - Rs.1000/-

[2.0] It is submitted that compulsive registration shall also begin within this week. It is further submitted that the Cattle Nuisance Controlling Department is undertaking the activity of removing stray cattle from public road with utmost zeal and sincerity. It is further submitted that as pointed out earlier, the amount of penalty is raised upto 200% by the Standing Committee of the Ahmedabad Municipal Corporation and now the Corporation has decided to apply tag to the stray cattle which are captured and if the same stray cattle, is captured again, amount of fine would increase against the owner of the stray cattle. It is submitted that the above referred decision would result into deterrent effect against the owner of stray cattle and then they would not indulge into activity of keeping their cattle on road.

[2.1] Shri Kamal Trivedi, learned Senior Advocate appearing on behalf of Ahmedabad Municipal Corporation has further submitted and stated at the Bar that the penalty amount recovered on account of cattle impounding shall be kept and maintained separately and shall be utilized for the purpose of betterment of the purpose of cattle at Panjrapole area as well as for creating awareness to the reduce cattle nuisance on public streets. It is further submitted that the Ahmedabad Municipal Corporation shall provide for more

amount to carryout the repairs, to provide for better facilities at Panjrapole and to increase the intake capacity. It is further submitted that the Ahmedabad Municipal Corporation shall declare certain roads as zero tolerant cattle nuisance road to begin with. It is further submitted that the Ahmedabad Municipal Corporation in consultation with the State Government shall identify the land /lands on the outskirts of the city for rehabilitating the cattle and the cattle owners. He has also stated at the Bar that all the action /necessary steps shall be taken to deal with /tackle the stray cattle problem on the public roads /streets.

[3.0] Ms Manisha Lavkumar, learned Government Pleader appearing on behalf of the State has stated at the Bar that all assistance shall be provided by the Police Department as and when required to remove the stray cattle from the public road /streets.

[4.0] Concerned respondents are directed to act as stated /submitted hereinabove and are also directed to comply with our earlier order /directions issued in our earlier order dated 11/05/2018, more particularly, the directions contained in paragraph nos.29(19) to 29(3) so that the people /citizens may not have to suffer due to stray cattle on the public roads /streets. It is observed and directed that if anybody tries to interfere with any of the action taken by Ahmedabad Municipal Corporation and /or its Officers in performing their duties, they shall be dealt with strictly. Nobody can be permitted to take the law in their own hands and nobody can be permitted to interfere with any public Officer in performing their duties as a public Officer.

[5.0] Now so far as the parking issues are concerned, Shri Kamal Trivedi, learned Senior Advocate has submitted that on an extremely busy road with heavy traffic and lack of space, multilevel parking on pay and use basis is an ideal solution and in fact it is the need of the day. It is submitted that at present there are three such multi level parkings, Makrand Desai Parking at Relief Road; Kankariya Multilevel Parking at Kankariya, Maninagar and Navrangpura Complex at Navrangpura, which at present have total capacity of 1080 for two wheelers and 700 for four wheelers. It is submitted that upon survey it is found that the multilevel parking would also be necessary in other heavy traffic zones and areas having less open space. It is submitted that five such multilevel parking plots are proposed in such areas;

Sr. No.	Name of Zone	Location of Plots	Area of plot in sq. mtr.
1	New West	Opp. Prahladnagar Garden	7189
2	New West	Nr. Arista Complex, Shindhubhavan Road, Bodakdev	9116
3	West	Silver Star Cross Road, Chandlodiya	3964
4	South	Shell Petrol Pump, Nr. Hirabai Tower, Maninagar	7289
5	West	Panjrapol Cross Road, Gulbai Tekra, Ahmedabad	7196
		Total	34754

[5.1] It is further submitted by Shri Kamal Trivedi, learned Senior Advocate appearing on behalf of the Ahmedabad Municipal Corporation that in the fairly high traffic areas with open spaces available, Corporation has identified

25 parking plots with total capacity of parking of 11792 two wheelers and 2020 four wheelers. It is further submitted that these parking plots are already available for parking at token fees. It is further submitted that the Corporation has identified 48 more such parking plots all over the city of Ahmedabad with total parking capacity of 20984 for two wheelers and 3171 for four wheelers. It is submitted that the list of such 25 operational parking plots and 48 proposed parking plots are at Item Nos.2 and 3 with the written submissions. It is submitted that such parking plots shall be made operational within a period of 10 days of the order by recovering token parking charges.

[5.2] It is further submitted that the Corporation has also identified 21 parking spaces available under the flyovers in the city of Ahmedabad and the Corporation has to frame proper policy in administering of the aforementioned parking spaces with uniformity so as to put the parking spaces to its maximum utilization, for which the Corporation as well as the Traffic Police shall give wide publicity with the use of print /electronic media, social media, radio programme and if necessary, by providing special application to cater to the specific need of parking of an individual.

[6.0] It is submitted by Ms Manisha Lavkumar, learned Government Pleader appearing on behalf of the respondent – State that on 06/08/2018, a joint meeting was convened between higher Officers of the Police Department and the higher Officers of the Ahmedabad Municipal Corporation to discuss the parking issue in the city. It is submitted that the authorities are also seriously considering to provide on-road

parking, after having proper study and consultation with the traffic department, however depending upon the width of the road.

[7.0] Shri Kamal Trivedi, learned Senior Advocate appearing on behalf of the respondent – Ahmedabad Municipal Corporation as well as Ms Manisha Lavkumar, learned Government Pleader appearing on behalf of the respondent – State and the Traffic Department has submitted that nobody shall be permitted to park any vehicles on the public roads and even nobody shall be permitted to sell anything on the public roads /streets and no encroachment on the public roads /streets shall be permitted and all effective steps shall be taken to remove the encroachment from the public roads /streets. It is further submitted by Shri Kamal Trivedi, learned Senior Advocate appearing on behalf of Ahmedabad Municipal Corporation that wherever in the old buildings, commercial and /or residential, any parking space is regularized on certain terms and conditions and if it is found that there is breach of such terms and conditions, appropriate steps shall be taken. He has stated at the Bar that there shall not be any regularization of the encroachment on the parking space and /or spaces reserved for parking, henceforth. It is submitted that there shall be strict implementation of parking space on the upcoming constructions. It is submitted that wherever breach of plan is found insofar as parking space is concerned, forthwith recall of the sanctioned plan after following the procedure as required / after following the principles of natural justice shall be done.

[7.1] It is further submitted by Shri Kamal Trivedi,

learned Senior Advocate appearing on behalf of Ahmedabad Municipal Corporation that to reduce traffic at S.G. Highway, the Ahmedabad Municipal Corporation, AMTS has started Route No.501 (Vaishnodevi Express) and in view of such facility, citizens would be getting the facility of bus transport frequently at every ten minutes between Vaishnodevi Temple and Ujala Circle and total distance of the route is about 18.3 km. It is submitted that the cost of the ticket is very nominal i.e. Rs. 5/- , Rs.10/- and Rs.15/- and about almost 7200 passengers are using such facility on daily basis.

[7.2] It is further submitted that as per the present strength, there are total 700 AMTS buses over and above BRTS buses plying on the road providing public transport to the citizen of Ahmedabad and the existing strength includes 450 mini buses, 08 mini buses and 200 regular buses. It is submitted that Corporation has introduced mini buses by considering the traffic situation of Ahmedabad so that small size buses can be used for public transport which would ultimately reduce traffic problem to a great extent. It is submitted that AMTS has proposed to purchase 50 new AC electric mini buses, plus 10 mini CNG buses, plus 100 mini CNG buses (Non AC) and 100 regular (AC) buses. It is submitted that the Corporation is in the process of strengthening the public transportation so as to reduce traffic problem within the city limits of Ahmedabad.

[7.2] He has stated at the Bar that the Ahmedabad Municipal Corporation would initiate programme to the drivers of the BRTS and AMTS buses and if need be concerned expert authorities would be consulted for the purpose of training. It is

submitted that the drivers of BRTS and AMTS buses who are found to be not parking the buses at the bus stand properly, show cause notice shall be issued to them and in fact are already issued.

[8.0] Ms Manisha Lavkumar, learned Government Pleader appearing on behalf of the respondent – State and the Traffic Department has submitted that to tackle with drivers, State Government is committed to take necessary steps. It is submitted that for the aforesaid 47 Police Stations were consulted so that specific pick up points for auto rickshaw can be made. It is submitted that after such consultation 25000 points are earmarked as pick up points for auto rickshaw. It is submitted that such parking points should be under constant monitoring of the Traffic Department as well as Ahmedabad Municipal Corporation so as to restrict the auto rickshaw within the area provided. It is submitted that the Traffic Police as well as the Ahmedabad Municipal Corporation shall ensure that such allotted pick up spots are kept open and freely available for the very purpose and shall be kept free from any encroachment by temporary or permanent structures.

[8.1] It is further submitted by Ms Manisha Lavkumar, learned Government Pleader appearing on behalf of the State that the State Government has decided to undertake training to auto rickshaw drivers, who are 1 ½ lakh in numbers and to BRTS as well as AMTS drivers through trained persons with the help of latest technology and specific audio video modules. It is submitted that badges and uniforms shall be provided to the auto rickshaw drivers. It is submitted that after completion of the training course, proper certificate would be provided to

auto rickshaw drivers. It is further submitted that to create awareness and to educate children on the traffic laws, Traffic Department - State Government is planning to undertake activities with schools as well as NGOs for imparting traffic knowledge to students and citizen respectively. It is submitted that the Traffic Department is already having Transport Education Awareness Mobile (TEAM) for bringing traffic awareness. It is submitted that it is pursuant to such programme nearly 6.5 lakhs students and 21 lakhs citizens have been imparted awareness training by now. It is submitted that there is already a special number i.e. 1095 for making complaints with regards to the traffic issues and whatever complaint is received on such number with respect to any traffic problem /congestion of traffic in a particular area /road, on receipt of such information, concerned respondents are directed to act as above as well as shall comply with our earlier directions contained in our earlier order dated 11/05/2018 in Writ Petition No.170/2017 and various orders passed in the present proceedings from time to time.

[9.0] It is reported that by taking further steps, after the detailed directions were issued by this Court, there is lot of improvement because of the team work and the work done jointly by the traffic department as well as the Officers of the Ahmedabad Municipal Corporation. It is submitted that there is awareness created in the minds of the common people and they have started understanding and /or realizing the value of time. It is reported that because of various steps taken to deal with the traffic issue and the encroachments are removed, approximately 30-40% time of the common people /citizen is saved. As observed in the earlier order, under the able

leadership of the Commissioner of Police, Ahmedabad as well as the Commissioner, Ahmedabad Municipal Corporation and the collective steps taken by the Officers of the concerned Department and the constant guidance and support from the State Government, things have improved. Concerned respondents are directed to continue to take steps. Every citizens must appreciate and understand that on one hand they were right and on the other hand they have certain duties also, and therefore, now the citizens also have to play an important role and fully cooperate with the concerned Department while taking the steps to deal with the traffic issue. All must consider the city of Ahmedabad as their own city (my own city).

[10.0] In view of the above and for the reasons stated in the earlier order dated 11/05/2018, Writ Petition No.170/2017 stands disposed of with the following directions;

Re. Problem of Public Roads /Service Roads

(1) *The Ahmedabad Municipal Corporation, its officer, agents, as well as the State Government and its concerned authorities shall strictly and scrupulously follow and comply with the directions issued by the Division Bench of this Court in the case of Sharda Sahkari Gruh Mandali Ltd. And Ors. v. Ahmedabad Municipal Corporation And Ors. (supra), more particularly, in Paragraphs 35 to 41 of the said decision.*

(2) *There shall be proper and effective supervision and monitoring of the construction/ resurfacing/*

restoration of roads by the concerned officers of the concerned Departments of the Corporation as per the relevant Rules and Regulations, Circulars, Notifications, etc. issued from time to time with respect to entrustment and delegation of powers, more particularly, for maintenance of roads as per Manual-II, Regulation and Delegation of Powers of the Corporation, namely:-

(i) It will be the duty of the Engineering Department of the Corporation to see that roads are reconstructed/ resurfaced / restored as per the specifications and quality and that the Assistant City Engineer of the concerned area shall certify, after construction/resurfacing/ restoration of the road that the road is constructed / resurfaced/ restored as per the specifications and as per the quality, which shall be counter-signed by his superior and then and then only and after the same is certified by the Accounts Department, and audit, payment to the concerned Contractor shall be made.

(ii) If any Certificate is found to be incorrect and/or inaccurate and/or false, the concerned Officer of the Engineering Department shall be held personally responsible for which over and above disciplinary action, he/ she may be made liable for the related offences punishable under the Indian Penal Code also.

(iii) The Municipal Corporation to see to it that in

each contract/ tender notice, there shall be specification of the quality of the road and if there is any deviation found, the Contractor concerned shall reconstruct the same within the Defect Liability Period which shall not be less than two to three years.

(iv) That the Security Deposit and Performance Security Deposit/ Bank Guarantee shall be higher so that ultimately, if the Contractor does not restore the road and/or reconstruct the road as per the specifications, then in that case, same can be restored/reconstructed at the cost of the Contractor which can be recovered from the Security Deposit and/or Performance Security Deposit and/or Bank Guarantee. In such an eventuality, the Contractor shall also be saddled with heavy penalty.

(v) Payments to the Contractors shall be made only after the Assistant City Engineer of the concerned area certifies, after construction/ resurfacing/ restoration of the road, that the road is constructed / resurfaced/ restored as per the specifications and as per the prescribed quality, and only after the proper verification of the claim which shall be on the basis of the measurement noted in the Measurement Book and after the same is counter-signed by his superior and certified by the Accounts Department and thereafter by the Audit Department.

(3) *There shall be overall constant supervision and monitoring by the Commissioner, Deputy Commissioner and the City Engineer of the Corporation as ultimately, being the Heads of the Corporation/ Departments, they shall be responsible.*

(4) *So far as non-finalization of the Town Planning Schemes with respect to the areas included in the Ahmedabad Municipal Corporation, more particularly, those included after the year 2006, is concerned, the State Government – Urban Development and Urban Housing Department, the Chief Town Planner, the Town Planning Department of the Ahmedabad Municipal Corporation and the Commissioner, Ahmedabad Municipal Corporation, are hereby directed to see that the Schemes are finalised at the earliest so that the residents of those areas may get the required infrastructural facilities such as roads, electricity, drainage, etc. In a given case, the Appropriate Authority/ Competent Authority to exercise powers under Section 48A of the Gujarat Town Planning and Urban Development Act, 1976, pending finalisation of the Town Planning Schemes. However, all endeavour shall be made to finalise the Town Planning Schemes at the earliest, but not later than one year from today, as it is reported that because of non-finalisation of the Town Planning Schemes, roads are not constructed and infrastructural facilities are not provided to such areas.*

(5) That there shall be proper survey, analysis and design so that there shall be a detailed technical analysis and design of existing road surveys, etc. Therefore, it is suggested to have / appoint Project Management Consultant for road work to improve the qualitative and quantitative progress of road work as empanelment of Project Management Consultancy Services may help the Road Project Division as well as zonal works for the purpose of carrying out day-to-day monitoring, quality testing, quantity checking, record keeping and allied works in road construction. The AMC engineers shall ensure that the execution of works by the Contractors and Project Management Consultancy are carried out as per the tender specifications, terms and conditions and as observed hereinabove, the bills shall be processed after verification of the quality parameters, measurements and on satisfying the tender requirements and the roles and responsibilities of the Engineers shall be as per the Engineering Manual.

(6) The Corporation may also consider exploring the possibility of making use of plastic waste in certain proportion compulsory in case of construction of roads of a particular length to have more durability. However, for the same, the Corporation may consider the Circulars/ Notifications of the Ministry of Road Transport and

Highways regarding the same.

(7) The Standing Committee and the concerned Committee shall consider the aforesaid proposal at the earliest as it is the duty of the elected body also to resolve the problems of citizens as ultimately, they also will be responsible. Members of the various Committees, including the Standing Committee to perform Proactive Role in the larger Public Interest.

(8) That the Road Opening Permits henceforth shall have stringent terms and conditions regarding proper safety barricading, immediate reinstatement and timely maintenance till the end of the Defect Liability Period. That no Road Opening Permit / Road Digging Permit shall be granted firstly in the monsoon season unless the same is required for emergent situation for which the head of the concerned Department of the Corporation shall certify such emergent need. Further, no Road Opening Permits/ Road Digging Permits be granted unless the same are backed by a time-bound programme, namely the date on which the digging work will start, the number of days for which the same will continue, the specific date on which the work, for which the Road Opening Permit is granted, will be over, and that immediately but not later than three days, the road shall be restored/ resurfaced by such permit holders who have been granted Road Opening Permits for their own

Projects/ Work. The roads must be restored/ resurfaced in a proper condition by such permit holders only and if the roads are not restored/ resurfaced by the concerned Road Opening Permit holders within the time stipulated in the application, in that case only, the Corporation may reinstate/ resurface/ restore the road at the cost of such Road Opening Permit holders which shall be recovered by the Corporation from the Security Deposit which shall always be higher than the proposed cost for resurfacing / restoration. Therefore, the Security Deposit/ Deposit shall vary from work to work and looking to the measurement/ area. In the Road Opening Permit itself, it shall be specifically mentioned that if the road is not reinstated and/or restored and is not made motorable within the stipulated period of time, then in that case, in future, the concerned permit holder shall not be granted any permission to open the road and/or to dig the road. As regards whether the road for which the permission to dig is granted is restored and/or reinstated, or not, the same shall be monitored and supervised by the Head of the Department who grants such Road Opening Permit and that it shall be so certified by the Assistant City Engineer. It shall be the duty of the concerned Officers of the Department of the Corporation to see that after digging, roads are reinstated and/or resurfaced and/or restored appropriately so that in future, there shall not be possibilities of potholes and/or holes.

(9) *There shall be constant monitoring and/or supervision by the higher authorities, more particularly, the Municipal Commissioner on the work of the concerned officers of the Engineering Department. After the present petition was filed, the samples of the roads were sent to the FSL and the laboratory, namely, the Gujarat Engineering Research Institute, and it is reported that on the basis of the preliminary inquiry reports, departmental inquiries have been initiated. However, thereafter, nothing further is reported to have been done. Under the circumstances, the Commissioner, Ahmedabad Municipal Corporation, is hereby directed to initiate and complete the departmental inquiries against such erring officers and to see that appropriate action is taken against such concerned erring officers based on the merits of each case, as but for their negligence and/or connivance, the conditions of roads would not have been in such a poor /damaged state. The aforesaid exercise shall be completed within a period of three months and report on the same shall be placed before this Court in the present proceedings. The elected wing of the Corporation also to see to it that the aforesaid directions are complied with.*

Re.: Traffic Problem:

(10) *Now so far as traffic problem faced by the citizens/ residents of the city is concerned, it is directed that there shall be a proper study*

conducted by the State Government and the Corporation. There shall be an in depth study of the traffic problem, more particularly, congestion of traffic and the bottlenecks in smooth movement of traffic is required to be studied and found out so that further corrective measures can be taken. In many cases, important junctions are required to be redesigned using inhouse expertise or with the help of external experts to bring out the solution relating to the problem of traffic. The Traffic Engineering Department of the Corporation therefore shall extend complete cooperation to the Traffic Police Department to ensure smooth movement of traffic at all important junctions in the city. If required, important junctions shall be redesigned using in-house expertise or with the help of external experts to bring out the solutions of the problems related to traffic and for which there shall be an expert opinion of the Committee consisting of experts.

(11) That the teams of the Estate Department shall ensure removal of all types of encroachment on roads which are obstructing free movement of vehicles as well as pedestrian movement.

Footpaths

and service roads are meant for smooth movement of traffic and pedestrians. Therefore, the Estate Department of the Corporation and the Traffic Police Department are hereby directed to ensure removal of all types of encroachments on roads/ service roads which are obstructing free movement

of vehicular traffic. The concerned Departments of the State Government as well as the Corporation, more particularly, the Traffic Police Department and the Estate Department and the Commissioner of Police, Ahmedabad City, are directed to see that the vehicles are not parked on roads/ service roads surrounding the shopping centers, restaurants, clubs, hospitals, educational institutions, commercial/office complexes, malls, religious places, parks, theaters, Party-Plots etc. and they shall see to it that the vehicles of people visiting such places are parked in the Parking place in such buildings itself and that the roads/ service roads situated in front of or abutting such shopping centers, restaurants, clubs, hospitals, educational institutions, commercial/office complexes, malls, religious places, parks, theaters, Party-Plots etc. are not converted into their permanent parking place. Therefore, the concerned Departments shall first serve notice/ notices upon the management / owners / proprietors / trust etc. of the concerned shopping centers, restaurants, clubs, hospitals, educational institutions, commercial/office complexes, malls, religious places, parks, theaters, Party-Plots etc. which are having their buildings abutting the roads/ service roads with a specific mention that if any of the visitors to such places park their vehicles on road, it will be the responsibility of the concerned management/ owners/ proprietors / trust etc. to see to it that vehicles are not parked on public roads/ service

roads.

(12) The teams of the Estate Department of the Corporation shall also ensure that adequate parking spaces are provided at the time of issuing Building Use Permissions as per the GDCR. Correspondingly, it shall be ensured by timely inspections that the allocated parking spaces in the structures are not encroached after the issuance of Building Use Permissions.

(13) Strict action shall be taken against those who park their vehicles on public roads, more particularly, in "No Parking Zone". No parking shall be allowed, at least on crossroads/ junctions. If ultimately, the parking is found on cross-roads and No Parking Zones, the concerned Police Officer on duty at the particular point shall be held personally responsible for allowing such parking for which such officer shall be liable for disciplinary proceedings for dereliction in duty, etc.

(14) The speed breakers/ bumps on the roads shall be constructed as per the design and size as per the rules and regulations of the Indian Road Congress as far as possible however, subject to the requirements and need.

(15) The Commissioner of Police (Traffic) and the Commissioner, Ahmedabad Municipal Corporation are directed to see that the aforesaid directions are

complied with in its true spirit.

(16) Comprehensive Mobility Plan for Gujarat metros shall have to be prepared by the Government of Gujarat as per Ministry of Urban Development Guidelines.

(17) To ensure safe and smooth mobility in the city, the Mantra of "E-E-E", that is:

** Engineering,
* Education of People and
* Enforcement of laws,
has to be followed.*

(18) There shall be coordination between different Departments of the Government and there shall be periodical high level joint committee meetings once in a month to ensure appropriate solutions to the problems.

Re.: Cattle Menace:

(19) Now, so far as the stray cattle menace and the problem of cattle on public roads is concerned, the directions issued by the Division Bench of this Court in the case of Sharda Sahkari Gruh Mandali Ltd. And Ors. v. Ahmedabad Municipal Corporation And Ors. (supra) and the earlier directions referred to in the said decision shall be fully and truly implemented. All efforts shall be made by the Corporation and the State Government to remove cattle from public roads because stray cattle on the

roads are not only hindering the smooth and safe movement of traffic but are also very dangerous and sometimes fatal and are likely to create hygienic problems also.

(20) The Ahmedabad Municipal Corporation as well as the Commissioner of Police are hereby directed to see that no person sells fodder/ grass on public road and they shall see to it that there shall be constant daily monitoring and supervision by the concerned Police Officers of the concerned area and if at all it is found that any person is selling grass/ fodder on public road, the in-charge of the concerned Police Station shall be held personally responsible.

(21) Municipal Corporation shall relocate stray cattle from the roads to Gaushalas or institutions made for providing shelter to stray cattle.

(22) For removal of stray cattle from roads and for the relocation to the Gaushalas etc., the Municipal Corporation shall press into service, sufficient number of persons and vehicles for impounding and relocating animals.

(23) The vehicles which are used for carrying impounded cattle and animals shall be fitted with ramps in order to avoid the chances of injury to them.

(24) The transit and handling of the stray cattle and animals will be in conformity with the laws providing for their safety and prevention of injuries to them including Prevention of Cruelty to Animals Act, 1960.

(25) The cattle located in the city shall have a tag number tied around their necks and the tag number should be indicative of the name and address of the person to whom the animal belongs so that there will be no difficulty in tracing their owners. This direction shall be carried out by the person(s) owning the cattle. The enforcement of this condition shall be made by the civic authorities.

(26) Prosecution should be launched under the various penal provisions against the owners of such cattle which are found on streets and roads unattended.

(27) The Municipal Corporation shall employ sufficient number of persons to catch stray cattle and animals found on roads and streets. Once they are caught, they shall be impounded and may be released to owners on payment of fine and subject to other directions mentioned herein.

(28) The State Government shall assist the Municipal Corporation, Ahmedabad, in securing the implementation of the aforesaid directions. This may include financial assistance which would be

required by the Municipal Corporation of Ahmedabad to carry out the directions contained in this order effectively.

(29) The Commissioner of Ahmedabad Municipal Corporation shall nominate two officers, over and above the Head of the Cattle Nuisance Control Department who shall be responsible for carrying out the directions issued by this Court.

(30) As observed in the earlier order, the State Government to find out a permanent solution of cattle menace, may be by enacting appropriate law on the lines of State of Maharashtra. Therefore, the State Government may consider the same.

[10.1] Over and above the above directions, it is further directed that the Commissioner, Ahmedabad Municipal Corporation, Ahmedabad to see to it that the quality of roads is maintained and the payment is made to the Contractors only after considering the measurement books and the directions issued hereinabove. Considering the fact that the amount, which has been paid for the purpose of construction of roads etc. shall be public money, Commissioner may also consider to place the information with respect to spending the amount, including the measurement /roads etc. in the public domain as ultimately Ahmedabad Municipal Corporation is the custodian of the public money and the people whose money is being spent have a right to know where their amount is being spent.

[10.2] We are of the opinion that let the fine /penalty

collected while impounding the stray cattle be used for the betterment of Panjrapole and /or rehabilitate the concerned owners to rehabilitate the cattle.

[10.3] To ease the traffic problem, State Government and Ahmedabad Municipal Corporation to increase the public parking places and see to it that more and more public parking places are made available. State Government and /or Ahmedabad Municipal Corporation may also consider and /or reconsider, ofcourse after following due procedure of law, the decisions regularizing the parking places in the commercial buildings and to consider whether the regularization was permissible under the law or not. State Government and the Ahmedabad Municipal Corporation also to increase the public transport facilities to ease the traffic problem in the city of Ahmedabad and other cities. State Government may also consider to implement the present directions in other cities of the State also, which are also reported to be having the same problems and the citizens of those cities are also facing similar difficulties.

[10.4] It is further observed that the State Government and the Ahmedabad Municipal Corporation may seriously consider to utilize and use the amount of penalty /fine collected for traffic violation rules for the better facilities like public transportation, public parking places and other like facilities.

[11.0] Shri Anand Yagnik, learned Advocate has made a grievance that approximately 7500 vendors would be affected, and therefore, the Street Vendors (Protection of

Livelihood and Regulation of Street Vending) policy, which is there since many years is required to be implemented. Their grievance may be looked into and the same be considered subject to availability of space /lot. However, it is made clear and even as observed by Hon'ble the Supreme Court in the case of **Ahmedabad Municipal Corporation Vs. Nawab Khan Gulab Khan and Ors** reported in **(1997) 11 SCC 121** unauthorized encroachment of pavement dwellers affects pedestrians' right to free passage and also creates unhygienic ecology, traffic hazards and risk to lives of pedestrians. It is further observed that therefore the Municipal Corporation is entitled to remove the encroachments without any delay, for, if it allows the encroachers to remain in settled possession for a long period, they may claim a semblance of right, and therefore, while considering the aforesaid, Corporation may also take into consideration the decision of the Hon'ble Supreme Court in the case of **Nawab Khan Gulab Khan and Ors (Supra)**.

[11.1] In view of the above and for the reasons stated hereinabove, Writ Petition No.170/2017 stands disposed of in terms of the various directions issued by this Court from time to time, more particularly, the directions issued /contained in our earlier interim order dated 11/05/2018.

[12.0] Shri Kamal Trivedi, learned Senior Advocate appearing on behalf of Ahmedabad Municipal Corporation and Ms Manisha Lavkumar, learned Government Pleader appearing on behalf of the respondent – State as well as Traffic Department have stated at the Bar that they have assured the Court that the directions issued by this Court issued from time

to time, more particularly, the directions issued in the earlier order dated 11/05/2018 and the directions issued today shall be complied with in its true spirit and the steps, which are taken, are not temporary steps, which they shall continue till the ultimate goal /result is achieved i.e. smooth traffic on the public road /streets, which shall be in the larger public interest. Both of them have stated at the Bar that all efforts shall be made by the concerned Department and the Officers of the State Government to make the city of Ahmedabad a smart city in the real sense and in line with the status as a heritage city. With the hope and trust that all will perform their duties in the right earnest to make the city of Ahmedabad smart city, clean city and in real sense heritage city, Writ Petition No.170/2017 stands disposed of, however, with a direction that periodically bi-monthly action taken report /reports shall be placed on record of the present proceedings, which shall be placed before the Bench of which one of us be a party to the Bench.

[11.2] Before parting with the present order, we once again appreciate the steps taken by the State Government, Corporation and all its Officers, including the Commissioner of Police, Ahmedabad City and the Commissioner, Ahmedabad Municipal Corporation for taking necessary steps considering the interest of the citizen of Ahmedabad city to make the city of Ahmedabad in real sense smart city, clean city and in real sense a heritage city.

Civil Application Nos.1/2017, 2/2018, 3/2017, 6/2018, 7/2018, Writ Petition No.230/2016 & Writ Petition No.199/2017

In view of disposal of Writ Petition No.170/2017, Civil Application Nos. 1/2017, 2/2018, 3/2017, 6/2018, 7/2018, Writ Petition No.230/2016 and Writ Petition No.199/2017 stand disposed of.

Civil Application No.3/2018

Now so far as Civil Application No.3/2018 is concerned, it is reported that the Ahmedabad Municipal Corporation has already issued notice for change of user in the celler. The Ahmedabad Municipal Corporation is hereby directed to take appropriate steps on such notice at the earliest but not later than four weeks from today, however, after following due procedure, as required.

With this, Civil Application No.3/2018 stands disposed of.

Civil Application No.5/2018

Now so far as Civil Application No.5/2018 is concerned, as the departmental inquiries are pending, we refrain from passing any further order and the same stand disposed of.

Letters Patent Appeal No.541/2017

Now so far as Letters Patent Appeal No.541/2017 is concerned, Shri Japee, learned advocate appearing on behalf of the appellants seeks permission to withdraw the present Appeal with a liberty to pursue the representation. Without expressing anything on merits on the representation, present Letters Patent Appeal stands dismissed as withdrawn. It will be open for the appellants to pursue the representation for which this Court has not expressed any opinion on merits.

(M.R. SHAH, J.)

(A.Y. KOGJE, J.)

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