

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 13825 of 2017**

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SALIM BANAMIYA PANWALA & 6 other(s)

Versus

STATE OF GUJARAT & 2 other(s)

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Appearance:

MR NK MAJMUDAR(430) for the Petitioner(s) No. 1,2,3,4,5,6,7

MR KANVA ANTANI, AGP for the Respondent(s) No. 1,3

MR DHAVAL G NANAVATI(2578) for the Respondent(s) No. 2

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CORAM: HONOURABLE MR.JUSTICE A.Y. KOGJE

Date : 08/01/2020

ORAL ORDER

1. **RULE.** Learned AGP waives service of Rule on behalf of the respondent-State. Learned advocate Mr.Dhaval Nanavati waives service of Rule on behalf of the respondent no.2.

2. This petition under Article 226 of the Constitution of India is filed seeking protection of the petitioners who claimed to be carrying out doing business of running the lorry/ galla/ cabin in hawking zone no.3 earmarked in Chowk Bazar, central zone of City of Surat.

3. Learned advocate for the petitioner submits that the sporadically the authorities are disturbing the business of the petitioners by forcibly removing the lorry/ galla/ cabin and or not permitting them forcibly for carrying out their business. Learned advocate refers to the judgment in case of **Maharashtra Ekta Hawkers Union and another V/s Municipal Corporation, Greater Mumbai and others** reported in **(2014) 1 SCC 490** wherein nation wide directions have been issued to frame the policy



for taking the care of the interest of the street vendors and regulate their activities.

4. Learned advocate for the respondent Corporation states that the applicant has approached this Court on account of the alleged action by the Police Authorities in disturbing the business of lorry/ galla/ cabin and that action is taken under the directions of the Surat City Police Commissioner and therefore insofar as the Municipal Corporation is concerned the stand of the corporation is reflected in the affidavit filed on behalf of the corporation. He draws attention of this Court to the paragraph 8 and particularly to paragraph 9 to bring to the notice of the Court the exact status insofar as the scheme for street vendors is concerned.

5. Learned AGP submits that several litigations in the form of PIL with regard to the same issue are also pending.

6. Having considered the rival submissions and having perused the documents on record. It appears that the petitioners are doing petty business of selling eatables from their lorry/ galla/ cabin in the area mentioned. It appears that the petitioners to protect their business and occupation in the hawking zone had made a representation on 18.04.2017 and 06.05.2017. In such representations the petitioner has also referred to the directions of the Apex Court in case of **Maharashtra Ekta Hawkers Union (Supra)**.

7. It is not disputed that in the hawking zone the petitioners are carrying out their hawking activities.

8. In view of the aforesaid, it would be appropriate to direct the respondents, the Surat Municipal Corporation to take into consideration the representations dated 18.04.2017 and 06.05.2017



and take a decision within a period of three months from today.

9. Till such decision is taken by the Surat Municipal Corporation *status quo* be maintained by both the sides. While the *status quo* is in operation the petitioners shall abide by the content of paragraph no.5 which is as under:

“5. The applicants state that this representation may be considered and decided at the earliest and till the same is considered, we request your goodself not to restrain us from doing our petty business as we do not commit any breach of the provisions of any Act, we keep the entire area surrounding our cabins absolutely clean and in hygienic manner and we do our business from 7.00 a.m. To 11.00 p.m. And thereafter we close our cabins.”

10. This order will be applicable only in case of the petitioners.

11. The petition is allowed in the aforesaid terms. Rule is made absolute to the aforesaid extent. Direct Service is permitted.

URIL RANA

(A.Y. KOGJE, J)