

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH) AT PUNE

APPEAL NO. 19 of 2025 (WZ)

IN THE MATTER OF:

Vijaykumar Karsanbhai Gadhavi & Ors.

...APPELLANTS

Versus

Union of India and Others

...RESPONDENTS

Reply Affidavit on behalf Respondent No. 3, Gujarat Pollution Control
Board, GPCB.

I Tejas Patel, the authorized signatory of the Respondent No. 3, GPCB, Adult, Occupation – Service: Environment Engineer do hereby state on oath and make this affidavit as under:

1. I am serving as Environment Engineer with the Respondent No. 3 Board, and I am well conversant with the fact and circumstances of the present appeal and I am also duly authorised on behalf of the Respondent No. 3 Board and thus, I am filing this affidavit. I say that I am filing this affidavit for on and behalf of GPCB to place on record of this Hon'ble Court certain facts pertaining to the present case and to refute and deny the allegations and contentions that have been raised in the appeal against the Respondent No. 3. As also, to object

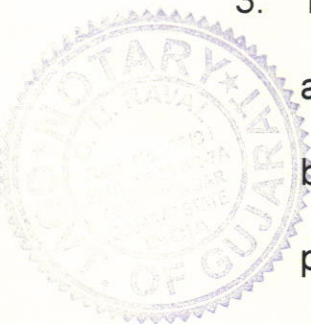


Tejas Patel

the grant of any relief or interim relief in favour of the Appellant. I am not dealing with the contents of the appeal paragraph wise and my such non dealing may in no manner be construed or interpreted as an admission on my part. I hereby deny all the allegations and averments made and the contentions raised in the appeal raised against Respondent No. 3 in toto. I crave leave of this Hon'ble Tribunal to file a further affidavit if as required.

2. I say that a petition was filed by Mr. Bharat Gangji Gala i.e., the Appellant No. 3 herein, against Gujarat Pollution Control Board (GPCB) and others in the High Court of Gujarat at Ahmedabad being Writ Petition (PIL) No. 85 of 2022, praying inter alia to declare the public notice issued by GPCB dated 26.09. 2022 as illegal, arbitrary etc., and such other reliefs. It is submitted that after hearing the said petition in detail the Hon'ble High Court of Gujarat was pleased to dismiss the said petition by order dated 18.10.2022 and directed the petitioners to pay a sum of Rs. 50,000/- to the Respondent Board (GPCB) to be utilised for the welfare of project displaced persons. if any. A copy of the said order dated 18.10.2022 is annexed hereto and marked as **ANNEXURE - 1**.

3. The present appeal has been filed praying inter alia to quash and set aside the Environmental Clearance (EC) dated 12.12.2024 granted by the Respondent No. 1 in favour of the Respondent No, 4 for the proposed project of Light Soda Ash (LSA) and such other reliefs as prayed in the appeal. The principal contention, as has been raised by the Appellant in the Appeal against the Respondent No. 3, GPCB is



that the Public Hearing conducted by Gujarat Pollution Control Board in violation of Appendix IV of EIA Notification, 2006. As against the same, the Respondent No. 3, would like to humbly state as under:

A. It is submitted that a public hearing was scheduled on 06/04/2022, which was cancelled and postponed on account of heavy objections and opposing by the respective entities including Appellant. Accordingly, the public hearing was scheduled on 17/10/2022 and it was conducted from 11:00 AM to 10:00 PM. The representations from the public were patiently heard during the public hearing despite a lot of ruckus being created by the objectors including the Appellant herein.

B. For the said public hearing, an advertisement was published in Gujarati newspaper "Divya Bhasker" on 03.03.2022 and in English Newspaper "The Times of India" on 04.03.2022, i.e., well before 30 days intention to provide sufficient time to the public at large to submit their objections or responses.

C. It is submitted that on 5th March 2022, a copy of the Environment Impact Assessment report and the Executive Summary of the Environment Impact Assessment report, both in English and Gujarati, were sent to the relevant authorities for public inspection during normal office hours until the public hearing was over. The documents were submitted to the District Collector Office, Bhuj, Dist. Kutch; District Development Office, Bhuj, Dist. Kutch; District



Industry Centre, Bhuj, Dist. Kutch; The Taluka Development Office, Ta. Mandvi, Dist. Kutch; Regional Officer, Integrated Regional Office, Ministry of Environment, Forests and Climate Change (MoEF&CC); and the Regional Office, Gujarat Pollution Control Board (Kutch – West).

D. It is submitted that on the day of the public hearing, i.e., on April 6th, 2022, Mr. Hanumantsinh M. Jadeja (G.A.S.), Residential Additional Collector and Additional District Magistrate, Kutch, presided over the entire public hearing process. Shri T. C. Barmeda, Regional Officer, GPCB, Kutch (West) and the representative of member secretary of Gujarat Pollution Control Board (GPCB) welcomed all present at the Environmental Public Hearing. Seating arrangements for approximately 1500 persons had been made. However, the public insisted on seating at the front of the stage and created a lot of chaos by using the public announcement system designated for the hearing even before it officially began. Shri T.C. Barmeda, Regional Officer, Kutch (West), attempted to initiate the hearing with his speech, but due to the significant turbulence caused by the public, none of them were willing to listen. Thereafter, Shri Hanumantsinh M. Jadeja (G.A.S.), Residential Additional Collector, tried to advise the public that if such protests continued, their grievances would not be recorded. However, the public remained unresponsive and refused to listen. The situation escalated as the public began protesting near the dais. The police staff attempted to calm the public and urged them



G. J. S.

to raise their concerns one by one in an orderly manner so that the hearing could proceed in a timely and legitimate way, but the public continued to argue. The atmosphere became charged with anger and opposition, making it uncondusive to conduct the public hearing. Considering the circumstances, the Chairperson of the public consultation concluded that the public hearing would remain cancelled and could not proceed further. The minutes of the public hearing proceeding duly signed by Mr. Hanumantsinh M. Jadeja (G.A.S.), Residential Additional Collector and Additional District Magistrate, Kutch, and Shri T. C. Barmeda, Regional Officer, GPCB, Kutch (West) and the representative of member secretary of Gujarat Pollution Control Board (GPCB).

E. Accordingly, Re-advertisement was published on Gujarati newspaper "Divya Bhasker" on **26.09.2022** and 30.09.2022 in English Newspaper "The Times of India" on 01.10.2022, fifteen days before the public hearing, as per the EIA Notification 2006 and its amendment. It is pertinent to state that during the period between the first and second public hearings, the Draft EIA/EMP report was available on the GPCB website for public access. The Second Public hearing was scheduled to be held on 17.10.2022 at 11:00 Hrs, Venue: Project Site, Survey No. 432, Village: Bada, Taluka: Mandvi, Dist. Kutch.

F. It is submitted that on 30th September 2022, a copy of the Draft Environment Impact Assessment report and the Executive Summary of the Draft Environment Impact Assessment report,




both in English and Gujarati, were sent to the relevant authorities for public inspection during normal office hours until the public hearing was over. The documents were submitted to the District Collector Office, Bhuj, Dist. Kutch; District Development Office, Bhuj, Dist. Kutch; District Industry Center, Bhuj, Dist. Kutch; The Taluka Development Office, Ta. Mandvi, Dist. Kutch; Regional Officer, Integrated Regional Office, Ministry of Environment, Forests and Climate Change (MoEF&CC); and the Regional Office, Gujarat Pollution Control Board (Kutch – West). Thereafter, announcements by various modes such as through loudspeaker and banners on auto rickshaw etc., and the rickshaw were made in the villages of the concerned area before the public hearing scheduled on 15.10.2022 & 16.10.2022.

G. It is submitted that before the public hearing, on the 1st October 2022, hundreds of threatening letters were addressed, in order to cancel the public hearing which was scheduled. In light of such threatening letters received and the experience learnt from the first public hearing on 06/04/2022, where the situation became uncontrollable, GPCB took necessary precautions to ensure safety, increased police protection, strengthened site fencing, and implemented additional security measures to safeguard both the public and our personnel, as the primary focus was to conduct the hearing peacefully while maintaining law and order. Approximately 1,000–1,500 individuals may have attended the public hearing. However, only 106 people signed the signature sheet circulated by



the GPCB's concerned person during the public hearing and therefore, GPCB reported 106 attendees in the proceedings. Further, 1,066 points were raised by local people and a point-wise reply from the project proponent was provided to them. The public hearing continued for about 10–11 hours. Sufficient time was given, the procedure was duly followed, and the concerns raised by the public were addressed. A total of 1,154 written representations were received, including concerns raised and supporting letters by the public. During the public hearing, the Chairman observed that only three to four individuals, were repeatedly raising the same questions. In response, the Chairman advised them to submit their concerns in writing after 10-11 hours of patient hearing. The duly signed Proceedings of Public Hearing was submitted to MoEF & CC vide letter no. GPCB/PH/2022-23/Kutch(West)-184/689221. Further, Action plan for the issues raised during public hearing including the issues raised in written/representations received by GPCB was prepared and the same was submitted by PP to MoEF & CC at the time of application.

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4. The above-mentioned facts, clearly indicate and rather go to show that GPCB has conducted the Public Hearing in full compliance with Appendix IV of the EIA Notification, 2006, ensuring transparency, public participation, and adherence to due process. Despite disruptions and external influences, all procedural requirements, including proper notifications, public access to documents, and response mechanisms, were duly followed. The rescheduled hearing was held lawfully,



addressing public concerns while maintaining law and order. The Public hearing proceedings is annexed here with and marked as ANNEXURE -

2.

I crave leave to file other and further affidavit, when the need arises.

What is stated herein above is true and correct.

Solemnly affirmed at Gandhinagar on this 24th day of March, 2025.


Deponent.



SOLEMNLY AFFIRMED
BEFORE ME

(C. M. RAVAL)
NOTARY
GOVT. OF GUJARAT

24 MAR 2025

Entered in Notary Register at
Serial No. 103 Vol. No. III
C. M. RAVAL ADVOCATE & NOTARY
GANDHINAGAR

24 MAR 2025



**ANNEXURE - 1****IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/WRIT PETITION (PIL) NO. 85 of 2022**

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BHARAT GANGJI GALA

Versus

GUJARAT POLLUTION CONTROL BOARD

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Appearance:

MR AJ YAGNIK(1372) for the Applicant(s) No. 1,2,3,4

MS MANISHA LAVKUMAR, SENIOR ADVOCATE for Opponent No.1

MR KM ANTANI, AGP for Opponent Nos.2 and 3

MR PARTH BHATT, for Opponent No.4

MR MIHIR JOSHI, SENIOR ADVOCATE for Opponent No.5

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CORAM:**HONOURABLE THE CHIEF JUSTICE MR. JUSTICE ARAVIND
KUMAR**

and

HONOURABLE MR. JUSTICE ASHUTOSH J. SHASTRI**Date : 18/10/2022****CAV JUDGMENT****(PER : HONOURABLE THE CHIEF JUSTICE MR. JUSTICE ARAVIND KUMAR)**

1. This petition has been filed on 11.10.2022 and even before scrutiny of the papers could take place, a request for matter being listed on 12.10.2022 or 13.10.2022 was moved in open Court and it came to be rejected on ground of there being no urgency. In the meanwhile, a writ petition under Article 32 came to be filed by the petitioners before the Hon'ble Apex Court in Writ Petition (Civil) Diary No.32929 of 2022 and it seems to have been mentioned before the Hon'ble Apex Court on



13.10.2022 for being taken up. Learned counsel who represented the petitioners before the Hon'ble Apex Court conceded to the fact that petitioners had already approached this Court by filing a Special Civil Application under Article 226 of the Constitution of India namely the present application. However, it was submitted before the Hon'ble Apex Court that matter was not getting listed. Hence, the Hon'ble Apex Court granted liberty to the petitioners to withdraw the petition filed before it and gave further liberty to the petitioners to make an appropriate mention before this Court to have the pending matter listed at an early date. Petitioners do not seem to have submitted before the Hon'ble Apex Court about the date of filing of this writ petition [Writ Petition (PIL) No.85 of 2022] being 11.10.2022, when the writ petition filed before the Hon'ble Apex Court was mentioned namely on 13.10.2022. In this background, petitioners filed yet another request for grant of circulation of this writ petition on 14.10.2022 and the request was accepted and matter was ordered to be listed



on 17.10.2022. In fact, this writ petition was registered on 14.10.2022 only.

2. Today when the matter was taken up for consideration, the learned advocates appearing for both the parties submitted that consideration of interim prayer and main prayer are one and the same. Hence, by passing the following order, we took up the matter for final disposal :

“Learned advocates appearing for the parties submit that consideration of interim prayer and main prayer are one and the same and as such, matter is taken up for final hearing.

Shri A.J.Yagnik, learned counsel appearing for the petitioners has placed on record the gazette Notification dated 09.05.2022 issued by the Ministry of Environment and Forest, to which, Ms. Manisha Lavkumar Shah, learned Senior Advocate has seriously objected for the same. Gazette Notification dated 09.05.2022 is placed on record. To a pointed question posed by this Court to Mr. A.J. Yagnik, as to why Notification dated 09.05.2022 was not placed on record at the first instance, namely at the time of filing of the petition, he would fairly submit that it had gone unnoticed. His submission is placed on record.



This matter is listed at Serial No. 6 in Board-I, there was no attempt made by any advocate representing the parties for this matter being taken up at 11:00 am (the time of commencement of Court proceedings). Shri A.J.Yagnik, learned counsel appearing for the petitioners commenced his argument at 11:56 am and xxx xxx xxx.”

3. We have heard the arguments of Mr.Anandvardhan J. Yagnik, learned counsel appearing for the petitioner, Ms.Manisha Lavkumar, learned Senior Advocate appearing for respondent No.1, Mr.K.M.Antani, learned Assistant Government Pleader appearing for respondent Nos.2 and 3, Mr.Parth Bhatt, learned counsel appearing for respondent No.4 and Mr.Mihir Joshi, learned Senior Counsel appearing for respondent No.5. Perused the records.

4. At the outset, it requires to be noticed that petitioners have filed this petition for the following reliefs:

“(A) To hold and declare that the public notice dated 26.09.2022 annexed at



Annexure-B issued by the respondent Gujarat Pollution Control Board notifying the scheduled date of public hearing, for the project of 120 MW Captive Co-generation Power Plant for 1100000 TPA Light Soda Ash, 500000 TPA Dense Soda Ash, 200000 TPA Sodium Carbonate under Category "A" schedule to be undertaken by respondent no. 5 herein at Bada Village of Mandvi Taluka of Kutch District, on 17.10.2022 as being de hors the provisions of the Environment Impact Assessment Notification, 2006 and more specifically Clause 3 of Appendix IV of the EIA Notification 2006 in so far as it does not provide for minimum of 30 days period between the date of issuance of public notice for hearing and date of hearing and the actual date of public hearing and hence the same being illegal, arbitrary, irrational, violative of fundamental rights and Be further Pleased to quash and set aside the same.

(B) To hold and declare that failure to provide for minimum of 30 days' time as mandated in Clause 3 of the Appendix IV of the Environment Impact Assessment Notification, 2006 between the date of issuance of public notice for hearing and date of hearing and the actual date of public hearing by the respondent no. 1 herein is bad in law, illegal, arbitrary, irrational, violative of fundamental rights and the EIA notification of 2006 and Be Further Pleased to quash and set aside the public notice dated 26.09.2022 annexed at Annexure-B.

(C) To hold and declare that the Communication dated 30.09.2022 annexed



at Annexure-C issued by the respondent Gujarat Pollution Control Board notifying the scheduled date of public hearing, for the project of 120 MW Captive Co-generation Power Plant for 1100000 TPA Light Soda Ash, 500000 TPA Dense Soda Ash, 200000 TPA Sodium Carbonate under Category "A" schedule to be undertaken by respondent no. 5 herein at Bada Village of Mandvi Taluka of Kutch District, on 17.10.2022 as being de hors the provisions of the Environment Impact Assessment Notification, 2006 and more specifically Clause 3 of Appendix IV of the EIA Notification 2006 in so far as it does not provide for minimum of 30 days period between the date of issuance of public notice for hearing and date of hearing and the actual date of public hearing and hence the same being illegal, arbitrary, irrational, violative of fundamental rights and Be further Pleased to quash and set aside the same."

5. A perusal of the averments made in the petition would clearly indicate that sum and substance of the plea put-forward by the petitioners in the petition or in other words, the thrust of the contentions raised in the writ petition revolves around the notification dated 14.09.2006, contending *inter-alia* said notification mandates public consultation for projects falling within Category-A and it also mandates public hearing has to be



held for the stake-holders to have necessary information about the project so as to afford adequate opportunity to represent and address the environmental concerns of the proposed project and Paragraph 3.1 of Appendix-IV of the notification dated 14.09.2006 mandates that a minimum notice period of 30 days should be provided to the public for furnishing their response from the actual date of public notice and it was not provided since the impugned notice is dated 26.09.2022 and the date of hearing is fixed as 17.10.2022 at 11.00 a.m. which does not allow 30 days time as contemplated under the impugned notice.

6. The petitioners who claim to be public spirited persons and having their roots in the village where the proposed project of the 5th respondent is coming up though residing outside the village are claiming to be owning and possessing ancestral property and/or agricultural lands within the revenue limits of Bada village, Mandvi Taluka, Kutch District, where the proposed project is being set up and 4th respondent claims to be an Environment Researcher who is said to be



working in the Kutch region since long and claims to have contributed in several significant studies and projects concerning environment and sustainable development, cannot be heard to feign ignorance about the amendment to the Environment Impact Assessment Notification dated 14.09.2006, which has taken place on 09.05.2022. On this aspect, we would be delving upon at a later stage.

7. The notification dated 09.05.2022 has been placed on record by the learned counsel appearing for the petitioners by tendering the same in the open Court today before commencement of arguments and without even seeking for amendment of the pleadings by laying the foundational facts to put-forth the petitioners' case, though notification dated 09.05.2022 is being assailed. On the short ground that prayers sought for in the petition has rendered itself infructuous in the light of the notification dated 09.05.2022, Paragraph 3.3(a) after Paragraph 3.3 has been inserted and the very edifice or the foundation laid in the writ petition has got crumbled



by itself would be a good ground to dismiss the petition at the threshold. However, we desist from doing so to avoid any technical plea being put-forward and to stave off such plea being raised, we have heard the arguments of the learned advocates appearing for the parties at length, the timings of which is noted and recorded in the proceedings of this case, which reads :

“This matter is listed at Serial No.6 in Board-I, there was no attempt made by any advocate representing the parties for this matter being taken up at 11:00 am (the time of commencement of Court proceedings). Shri A.J.Yagnik, learned counsel appearing for the petitioners commenced his argument at 11:56 am and concluded it at 12:35 pm.

Ms.Manisha Lavkumar Shah, learned Senior Advocate appearing for respondent no.2 has addressed her arguments from 12:35 pm to 12:56 pm.

Mr.Paritosh Gupta, learned advocate appearing on behalf of Gupta and Law Associates submits that Vakalatnama is being filed today. Mr.Mihir Joshi, learned Senior Advocate appearing on his behalf has addressed argument on behalf of respondent no.5 by commencing his argument at 1:00 pm, and concluded the argument at 1:08 pm.

Mr.A.J.Yagnik, has commenced his reply argument at 1:10 pm and concluded at 1:15 pm.”



8. It is the contention of Mr. Anandvardhan J. Yagnik, learned counsel appearing for the petitioners that notification dated 09.05.2022 is prospective in nature and can be applied to the proceedings taken subsequent to the amendment coming into force i.e. after 09.05.2022. He would submit that in the instant case the first hearing having been taken place on 06.04.2022 and the proposed postponed hearing is scheduled to be held today i.e. 17.10.2022 at 11.00 a.m., during the interregnum an amendment has been brought to the Environment Impact Assessment Notification dated 14.09.2006 by notification dated 09.05.2022 and Paragraph 3.3(a) has been inserted, by virtue of which the proceedings already commenced under the old notification would be governed by the conditions stipulated in Appendix-IV, Paragraph 3.0 in general and Paragraphs 3.1 to 3.4. He would submit that under Paragraph 3.1 a minimum notice period of 30 days is to be provided by the Member Secretary of the concerned Pollution Control Board by advertising the same in one major national daily and one regional



vernacular State language newspaper which has not been done or in other words, time-gap for public hearing is less than 30 days. He would submit that if for any reason the hearing is postponed, such postponement has to be notified to the public through national and regional vernacular dailies and fresh hearing has to be held notifying the fresh date, time and venue as per procedure under Paragraph 3.1 namely it is to be held by giving 30 days minimum notice period or in other words, as per Paragraph 3.4 the procedure adopted as prescribed under Paragraph 3.1 has to be adopted for postponed hearing also. He would submit that by virtue of Paragraph 3.3(a) having been inserted by notification dated 09.05.2022 which is a delegated legislation, it would not take away the case of the petitioners or in other words, in respect of the proceedings which had already commenced by way of first public hearing which had already taken place. As such, contending that amended notification would be of no consequence to the proceedings already commenced, he prays for the petition being allowed. He would also submit



that though the notification dated 09.05.2022 does not indicate it to be retrospective, even the principles of retroactive would not be applicable particularly when the first hearing has commenced much prior to the issuance of the second notification. He would also contend that for application of retroactive activity of a notification, such notification itself should indicate that the facts or events taken place earlier will be taken care of while implementing the said notification and the subsequent notification should clearly specify this fact. He would also contend that having regard to the importance of public hearing, such public hearing should be meaningful and larger participation of all the stake-holders like the petitioners should be allowed to participate in such public hearing and with this avowed object, 30 days time has been provided under the notification dated 14.09.2006 which cannot be erased by a subsequent amendment and that too in respect of proceedings which had already commenced. In support of his submissions, he has relied upon the following judgment :



- (i) State Bank's Staff Union Madras vs Union Of India & Ors, reported in (2005) 7 SCC 584.**
- (ii) Vijay vs State Of Maharashtra & Ors, reported in (2006) 6 SCC 289.**
- (iii) Securities and Exchange Board of India vs. Rajkumar Nagpal and others, reported in 2022 SCC Online 1119.**

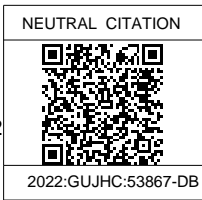
9. Ms.Manisha Lavkumar Shah, learned Senior Counsel appearing on behalf of respondent No.1 by seeking leave of the Court to file affidavit-in-reply on behalf of respondent No.1, has filed affidavit-in-reply on being granted leave and by reiterating the contentions raised thereunder, she has raised preliminary objection with regard to the maintainability of this writ petition contending that petitioner has attempted to mislead the Hon'ble Court by suppressing the provisions related to public hearing envisaged in notification dated 14.09.2006 which has since been amended on 09.05.2022, particularly Paragraph 3.0 of the notification dated



14.09.2006 which pertains to public hearing and the procedural aspect thereunder. She would submit that Paragraph 3.1 prescribes such procedure, whereas Paragraph 3.3 prescribes the procedure relating to exigency when the hearing stands deferred. She would at the first instance contend that present writ petition was filed on 11.10.2022 and affirmed on the same day, and it was registered on 14.10.2022 and even before registration of this petition could take place, petitioners had submitted before the Hon'ble Supreme Court that matter was not being listed which is factually incorrect and as though depicting that petitioner is fair to the Court, they have withdrawn the writ petition filed before Hon'ble Apex Court on 13.10.2022 with liberty to make appropriate mention before this Court and on the score of material suppression of facts, this writ petition is liable to be dismissed. By drawing our attention to Paragraph 3.3, which has been substituted by a notification dated 09.05.2022, she would submit that in the instant case, the public hearing was deferred when it was held on



06.04.2022 and petitioner had constructive knowledge of the said change of procedural law and despite the same, by suppression of facts this writ petition has been filed. She would further elaborate her submissions by contending that first hearing was notified on 03/04.03.2022 to be held on 06.04.2022 which was in consonance with Paragraph 3.1. Hearing to be held on 06.04.2022 was deferred in the background of then prevalent law and order situation at the venue of public hearing and as opined by the Collector, Kutch, and thereafter the deferred hearing was notified on 13.09.2022 - 01.10.2022 to be held on 17.10.2022 as per Paragraph 3.3(a) of the notification dated 09.05.2022 which prescribes 15 days' notice period. Hence, she would contend that at no stage there was infraction in the procedural law of holding public hearing as is necessary and mandated under the notification dated 14.09.2006 read with 09.05.2022. She would also contend that foundation of the entire case of petitioners is based on notification dated 14.09.2006 and now arguments have



sprung or canvassed from the petitioners' side assailing the legality of notification dated 09.05.2022 without even seeking amendment of the pleadings and petitioners' counsel has sought to propound his arguments by attacking the notification dated 09.05.2022 without there being iota of plea or foundation being laid in the pleadings. Notwithstanding the absence of plea and in light of the arguments now canvassed, she would contend that procedural aspect has alone been modified under the notification dated 09.05.2022 and post adjourned hearing. She would submit that amended notification dated 09.05.2022 has come into force by virtue of which Paragraph 3.3(a) having been inserted after Paragraph 3.3. She would also submit that there is no infraction of law and public interest does not suffer and in any event the only contention raised by the petitioners relates to reducing the notice period of public hearing. She would also submit that petitioner would not be in position to contend of any prejudice, inasmuch as, the time prescribed under the notification dated 09.05.2022 was



available and as such there is no merit in this petition and she prays for dismissal of the petition. She would also draw attention of the Court to para 100 of the judgment of the Hon'ble Apex Court in the case of ***Securities Exchange Board of India versus Rajkumar Nagpal and Others (supra)***, to contend that the notification dated 09.05.2022 now sought to be impugned by way of oral arguments is without merit. She would also contend that first public notice was published on 02.03.2022 for public hearing to be held on 06.04.2022, and thereafter rescheduled hearing was notified on 26.09.2022 to be held on 17.10.2022 and as such a sufficient time gap is maintained and therefore petitioners cannot plead there was any lack of opportunity or lack of time to put-forth their views in the public hearing that was being held on 17.10.2022.

10. Mr.Mihir Joshi, learned Senior Counsel appearing for respondent No.5 would support the arguments canvassed by Ms.Manisha Lavkumar Shah,



learned Senior Advocate and he would contend that only grievance of the petitioners is that there is insufficient time and he would submit that between first public notice till the public hearing scheduled to be held today, 7 months gap is there and it can be easily inferred that petitioners knew 7½ months back itself about the project. Hence, he would contend that grievance of the petitioners with reference to the adjourned hearing of there being time constraint, is baseless and frivolous, particularly when in the first public hearing 30 days has been clearly maintained. Hence he prays for dismissal of the petition.

11. In reply, learned advocate Mr.A.J.Yagnik, would submit that contention of Mr.Mihir Joshi, learned Senior Counsel, about the grounds urged by the petitioners being frivolous is without any basis and he prays for allowing the petition by granting the prayers sought for in the petition and prays for quashing of the notice dated 26.09.2022.



DISCUSSION AND FINDINGS :

12. Having heard the learned advocates appearing for parties and after bestowing our careful and anxious consideration to the rival contentions raised at the bar, we notice that fifth respondent has proposed to set up a Soda Plant at Bada Village, Mandavi Taluka, Kutch District. The said project falls within the category "A" of the notification dated 14.09.2006 (Annexure 'A'). The said notification mandates public consultation for setting up industries requiring prior Environment Clearance (EC). A mandatory public hearing has to be held for the stakeholders to have necessary information about the project and adequate opportunity to represent and address their environmental concern with regard to the project is the underlying object of the said public hearing. Paragraph 7 of the notification prescribes the stages in the prior Environmental Clearance (EC) process to be adopted for new project and stage 3 of Paragraph 7 indicates the manner in which the process of "public consultation" is to be conducted. Paragraphs 3.0, 3.1 to



3.4 prescribes the procedure for issuance the notice of public hearing which reads thus :

“APPENDIX IV

(See Paragraph 7)

PROCEDURE FOR CONDUCT OF PUBLIC HEARING

1.0 xxxx

2.1 to 2.4 xxxx

3.0 Notice of Public Hearing

3.1 The Member-Secretary of the concerned SPCB or UTPCC shall finalize the date, time and exact venue for the conduct of public hearing within 7(seven) days of the date of receipt of the draft Environmental Impact Assessment report from the project proponent, and advertise the same in one major National Daily and one Regional vernacular Daily / Official State Language. A minimum notice period of 30 (thirty) days shall be provided to the public for furnishing their responses;

3.2 The advertisement shall also inform the public about the places or offices where the public could access the draft Environmental Impact Assessment report and the Summary Environmental Impact Assessment report before the public hearing. In places where the newspapers do not reach, the Competent Authority



should arrange to inform the local public about the public hearing by other means such as by way of beating of drums as well as advertisement / announcement on radio / television.

3.3 No postponement of the date, time, venue of the public hearing shall be undertaken, unless some untoward emergency situation occurs and then only on the recommendation of the concerned District Magistrate / District Collector / Deputy Commissioner, the postponement shall be notified to the public through the same National and Regional vernacular dailies and also prominently displayed at all the identified offices by the concerned SPCB or Union Territory Pollution Control Committee;

3.4 In the above exceptional circumstances fresh date, time and venue for the public consultation shall be decided by the Member -Secretary of the concerned SPCB or UTPCC only in consultation with the District Magistrate / District Collector / Deputy Commissioner, and notified afresh as per procedure under 3.1 above.”

13. A plain reading of Paragraph 3.1 would indicate that minimum period of 30 days is to be provided between the date of notice of public hearing and actual date of public hearing. The fifth respondent has submitted a request letter on 15.11.2021 along with



Environment Impact Assessment Report and compliance for holding public hearing by inviting objections from the general public and upon receiving the said request, respondent No. 1 has instructed its Regional Office to fix the public hearing as requested by respondent No. 5. Accordingly, public advertisement was published on 04.03.2022 in English Daily 'Times of India' and Gujarati Daily 'Divya Bhaskar' on 03.03.2022 (Annexure R-1). The hearing was held as scheduled on 06.04.2022 well after 30 days as prescribed under the Paragraph 3.1 of the notification dated 14.09.2006. On account of law and order situation having stood grim, Collector, Kutch resolved to defer the public hearing as is evident from the proceeding drawn by the Collector on 06.04.2022 (Annexure R-2). By virtue of power vested under Paragraph 3.3, said recourse was taken to by the Collector.

14. Before postponed hearing could be convened, the notification dated 14.09.2006 came to be amended by notification dated 09.05.2022. The reasons and the object



with which amendment to Paragraph 3.3 of Appendix-IV being brought amongst other amendments, is traceable in the said notification itself which it reads thus :

**“MINISTRY OF ENVIRONMENT,
FOREST AND CLIMATE CHANGE
NOTIFICATION
New Delhi, the 9th May, 2022**

XXXXXX

And whereas, on certain occasions, the public hearings have been postponed due to various reasons often being beyond the control of the Project Proponent and as per the provisions of the EIA Notification 2006, the whole process for the public hearing is to be started afresh resulting in undue delay in completing the EC process;

And whereas, one of the factors which results in delay or postponement of the public hearings is the nonavailability of the District Magistrate or his representative not below the rank of an Additional District Magistrate to preside over the proceedings of the public hearing;

And whereas, the Central Government has been receiving representations to streamline the public hearing process;

And whereas, the Central Government taking into account the public interest involved, deems it necessary to streamline the process of the public hearing by reducing undue delays and facilitating



public participation without interrupting the access to the information pertaining to the project and also make a provision for the District Magistrate to authorise an officer not below the rank of Sub-Divisional Magistrate to preside over the Public Hearing to avoid such delay;"

15. Pursuant to the same, fresh public notice was issued on 26.09.2022 and on 30.09.2022, the Jurisdictional Talati-cum-Mantri, Village Bada Panchayat was informed by office of 1st respondent by calling upon the said office to publish the "Gujarati Executive Summary" on the notice board of village for attention of the villagers, apart from publishing the same in two newspapers. The procedure prescribed under Paragraph 3.3(a) of the notification dated 09.05.2022 came to be followed or resorted to under public hearing notice dated 26.09.2022. The public hearing was scheduled to be held on 17.10.2022 at 11:00 hrs. According to the respondent No.1, 15 days' period is prescribed under Paragraph 3.3(a) which provides for 15 days notice, which is sought to be contended by the petitioners as being contrary to Paragraph 3.1. It is to be borne in mind that hearing at



the first instance came to be held on 06.04.2022 as per public hearing notice dated 02.03.2022. However, said public hearing could not take place or in other words the public consultation process did not get fructified and before public hearing could start, there was severe protest against the project and as such the Collector opined that due to huge amount of turbulence by the public and none of them being ready to listen and public who had gathered were coming near the dais with black flags on their arms and despite efforts of the police personnel present at the site not yielding result, Collector was of the opinion that atmosphere was not conducive to conduct public hearing. Hence, public hearing came to be deferred.

16. It is in this factual scenario, the postponed hearing was required to be held and no doubt under the unamended notification dated 14.09.2016 even for the postponed hearing Paragraph 3.4 or Paragraph 3.1 of the said notification was applicable or could be attracted



namely 30 days notice was required to be given for public hearing. Whereas, in the instant case, after the first hearing took place on 06.04.2002 which did not culminate in effective public hearing being concluded and same having been postponed, as per the opinion of the Collector resulted in fresh proceedings being initiated. At that point of time, the fresh notice was issued on 26.09.2022 and the hearing date was fixed as 17.10.2022 by giving more than 15 days' time. It would be benefit to note at this juncture itself that the Central Government having felt that on certain occasions, the public hearing having been postponed due to various reasons, often being beyond the control of the project proponent and the whole process of public hearing is to be started afresh was resulting in undue delay in completing the e-environmental clearance process deemed fit to amend the notification dated 14.09.2006. Amongst other reasons which was held as deemed to be necessary to amend the notification of 14.09.2006 and to remove such lacuna to streamline the process of public hearing by reducing



undue delay and also facilitating public participation without interrupting the access to the information pertaining to the project, the Government of India in exercise of power conferred by Section 1 and clause (v) of sub-section (2) of Section 3 of the Environment (Protection) Act, 1986, read with sub-rule (iv) of Rule 5 of the Environment (Protection) Rules, 1986, brought about amendment to the notification dated 14.9.2006 by incorporating certain amendments. Paragraph 3 of the notification dated 14.9.2006 was also amended as under :

“3.3(a) In the event of any such postponement referred to in sub-paragraph 3.3, the time duration for convening the rescheduled public hearing should not be less than forty-five days from the date of first advertisement already published in accordance with para 3.1 for initial date of public hearing and it shall be ensured that a minimum notice period of fifteen days shall be provided to the public before the re-scheduled date of the public hearing, for furnishing the responses in writing: Provided that SPCB or UTPCC along with concerned authorities, as mentioned at para 2.2, shall ensure that all requisite documents are available to public in accordance with sub-paragraphs 2.3 and 2.4 from the date of first advertisement published for the initial date of



public hearing till convening of the rescheduled public hearing.”

17. In Maxwell Interpretation, 11th Edition, page 216, ‘it has been held a change in law of procedure operates retrospectively and unlike the law relating to the vested right is not only prospective’. The Hon’ble Apex Court in the case of **Anant Gopal Sheorey vs. The State of Bombay [AIR 1958 SC 915]** has held ‘no person has a vested right in any course of procedure. He has only the right of prosecution or defence in the manner prescribed for the time being by or for the Court in which the case is pending and if by an Act of Parliament the mode of procedure is altered he has no other right than to proceed according to the altered mode’. In the instant case, paragraph 3.1 referred to hereinabove supra of the notification dated 14.9.2006 prescribes for minimum notice period of 30 days for public for furnishing their response from the date of notice. Paragraph 3.3 would indicate that there can be postponement of the date, time and venue of the public hearing if there were to be



untoward emergency situation occurring and it can only be on the recommendation of the concerned District Magistrate / District Collector / Deputy Commissioner. The unamended paragraph 3.4 of the same notification also indicates that even in respect of postponed public hearing where fresh date, time and venue for public consulting is being undertaken, the procedure as prescribed under paragraph 3.1 requires to be followed. However, Paragraph 3.3 as noticed hereinabove came to be amended by adding 3.3(a). A plain reading of the same would indicate that in the event of any postponement referred to in sub-paragraph 3.3 were to occur, time duration for convening the first rescheduled public hearing has been fixed as not being less than 45 days from the date of first advertisement. In the instant case, the first advertisement for public hearing was issued on 02.03.2022 and the rescheduled public hearing as per the impugned notice dated 26.09.2022 has been fixed as 17.10.2022 and as such, it meets this requirement of 45 days. The amended paragraph also



prescribes for minimum notice period of 15 days should be provided to the public before the rescheduled date of hearing taken place to enable the stake-holders to furnish their responses in writing. This mandate is also complied in the instant case as evident from the notice dated 26.9.2022, and we say so for the simple reason that if period of 15 days as prescribed under Paragraph 3.3(a) is reckoned from the date of notice to the date of public hearing viz. 17.10.2022, the prescribed 15 days' period is met. It is to be further noticed that Pollution Control Board along with concerned authorities are required to ensure that all requisite documents are available to public in accordance with sub-paragraphs 2.3 and 2.4 of the EC Notification Appendix 4 from the date of first advertisement published for the initial date of public hearing till convening of the rescheduled public hearing. In other words, it would indicate that it would be in retrospective effect. It is this amendment of insertion of Paragraph 3.3(a) which has been brought about is sought to be assailed by Mr. A.J.Yagnik by making a futile



attempt and we say so for reasons more than one. Firstly, it requires to be noticed that the Constitution Bench of the Hon'ble Apex Court in the case of **Assistant Commissioner of Urban Land Tax vs. Buckingham and Carnatic Co. Ltd. [(1969) 2 SCC 55]** quoted with approval the following procedure:

"23. In Harvard Law Review, Vol. 73, p. 692 it was observed that :

'It is necessary that the legislature should be able to cure inadvertent defects in statutes or their administration by making what has been aptly called 'small repairs'. Moreover, the individual who claims that a vested right has arisen from the defect is seeking a windfall since had the legislature's or administrator's action had the effect it was intended to and could have had, no such right would have arisen. Thus the interest in the retroactive curing of such a defect in the administration of government outweighs the individual's interest in benefiting from the defect'."

18. The Hon'ble Apex Court in the case of **State Bank's Staff Union (Madras Circle) vs. Union of India and Others [(2005) 7 SCC 584]** while generally



explaining the expressions 'retrospective', 'retro active' and 'retro activity', has held to the following effect :

"24. Craies on Statute Law (7th Edn.) at p. 396 observes that:

"If a statute is passed for the purpose of protecting the public against some evil or abuse, it may be allowed to operate retrospectively, although by such operation it will deprive some person or persons of a vested right."

Thus public interest at large is one of the relevant considerations in determining the constitutional validity of a retrospective legislation.

25. The above position was elaborately noted in Virendra Singh Hooda and Ors. v. State of Haryana & Anr. (2004 (12) SCC 588).

26. Curative Statutes are by their very nature intended to operate upon and affect past transactions. Curative and validating statutes operate on conditions already existing and are therefore wholly retrospective and can have no retrospective operation."

19. In the recent judgment, the Hon'ble Apex Court in the case of **Securities and Exchange Board of India**



vs. Rajkumar Nagpal and Others [2022 SCC OnLine SC 1119] has held:

“100. We are of the opinion that the SEBI Circular has retroactive application. In Principles of Statutory Interpretation by Justice G.P. Singh (14th edition, 2016 at page 583), it is stated that:

***“The rule against retrospective construction is not applicable to a statute merely because “a part of the requisites for its action is drawn from a time antecedent to its passing”.** If that were not so, every statute will be presumed to apply only to persons born and things which come into existence after its operation and the rule may well result in virtual nullification of most of the statutes.”*

20. In this background, when the notification dated 09.05.2022 is examined though not in fact has been challenged in this Special Civil Application by laying foundation in the form of pleadings, yet on account of an argument having been canvassed during the course of oral submissions and the learned advocate appearing for the petitioners having tried to build a new case by assailing this notification, we have considered the



submissions as of the learned advocate appearing for the petitioners and the rebuttal arguments addressed by the learned advocates appearing for the respondents as noted hereinabove and find the contention raised is without any substance. We also notice that sum and substance of the grievance of the petitioners is lack of time in the postponed hearing being held on 17.10.2022. The said contention is also bereft of merit for the simple reason that original notice of public hearing was published way back on 02.03.2022 whereunder the public hearing was fixed on 06.04.2022 which was held but it did not ripen itself or blossom into a full-fledged public hearing on account of there being commotion and the authorities having anticipated law and order problem resulted in said hearing being postponed. It is this postponement which has led to the issuance of fresh notice under the amended notification under which the time gap of 30 days fixed for the public hearing came to be modified by insertion of paragraph 3.3 (a) by reducing the notice period to 15 days and maintaining 45 days prescribed in



Paragraph 3.1 from the date of first advertisement already published which the petitioners cannot be heard to contend that even in case of postponing hearing, they are entitled to 30 days' notice period as prescribed under paragraph 3.1. The said contention is without any substance and is liable to be rejected and accordingly, it stands rejected.

REASONS FOR IMPOSING COSTS ON PETITIONERS :

21. Petitioners herein are not rustic villagers or being ignorant of the prevalent law and we say so for the reason that verifying affidavit of the writ petition has been sworn to by petitioner No.4 who is said to be an Environmental Researcher and has been working in Kutch region since long and claims to have contributed in several significant studies and projects concerning environment and sustainable development. We have no reason to disbelieve the said statement and even if it is accepted at its face value, the irresistible conclusion which we are performed to arrive is that petitioner No.4 is conversant with all



environmental laws and is attempting to espouse the public cause knowing well the environmental laws. It is in this background the averment made in the petition has been looked into and examined by us. When seen in this background, we cannot lose sight of the fact that petitioner Nos.1, 2 and 3 in general and petitioner No.4 in particular being ignorant or not aware of the amendment brought about to the notification dated 14.09.2006. It is for this precise reason, we posed a specific question to the learned advocate appearing for the petitioners as to the reason for not placing on record the notification dated 09.05.2022 which was placed just before commencement of the arguments, the too, without any pleadings for which he had replied that it had gone unnoticed by the petitioners, which is very hard to be digested in the background of what we have narrated about the background of the petitioners and they having pleaded details of prevalent laws at micro level in their Special Civil Application. In other words, petitioners seem to have adopted a trick and stratagem to obtain



ad-interim *ex-parte* orders to stall the public hearing which was scheduled to be held on 17.10.2022 and that too pleading in their Special Civil Application about their being violation of conditions stipulated under notification dated 14.09.2006, which notification had been amended by notification dated 09.05.2022 which they were aware and yet had suppressed. Even question posed to the learned counsel as to why petitioners had not placed this amended notification at earlier point of time, his answer was this had gone unnoticed and reason not being petitioners having forgotten or same not being in their knowledge. In other words, they knew about notification dated 09.05.2022 having come into effect even as on date of filing of Special Civil Application on 11.10.2022, yet suppressing this and projecting only 14.09.2006 notification holds the field, they intended to snatch an order from this Court and by this process they intended to stall the entire process of public hearing and proclaim themselves as messiah of public cause which is otherwise. Though we were inclined to dismiss the petition at the



threshold by nipping at the bud and prevent the misadventure undertaken by the petitioners and also by applying the doctrine of ***suppressio veri and suggestio falsi*** viz. suppressing the truth and suggesting the falsehood, yet, we decided to receive the said notification dated 09.05.2022 on record to examine even the remote public interest does not suffer on account of any technical error. Even after having posed the question to the learned advocate appearing for the petitioners as noticed hereinabove, petitioners did not choose to amend the petition or the prayer sought for in the petition but on the other hand, they insisted for interim prayer also being granted, though they have addressed the arguments on merits of the case.

22. The Hon'ble Apex Court in the case of **Shri K. Jayaram and others vs. Bangalore Development Authority and others in Civil Appeal No.7550-7553 of 2021** disposed of on 8.12.2021, has observed:



“12. It is well-settled that the jurisdiction exercised by the High Court under Article 226 of the Constitution of India is extraordinary, equitable and discretionary and it is imperative that the petitioner approaching the writ court must come with clean hands and put forward all facts before the Court without concealing or suppressing anything. A litigant is bound to state all facts which are relevant to the litigation. If he withholds some vital or relevant material in order to gain advantage over the other side then he would be guilty of playing fraud with the court as well as with the opposite parties which cannot be countenanced.

13. This Court in Prestige Lights Ltd. V. State Bank of India has held that a prerogative remedy is not available as a matter of course. In exercising extraordinary power, a writ court would indeed bear in mind the conduct of the party which is invoking such jurisdiction. If the applicant does not disclose full facts or suppresses relevant materials or is otherwise guilty of misleading the court, the court may dismiss the action without adjudicating the matter. It was held thus:

“33. It is thus clear that though the appellant Company had approached the High Court under Article 226 of the Constitution, it had not candidly stated all the facts to the Court. The High Court is exercising discretionary and extraordinary jurisdiction under Article 226 of the Constitution. Over and above, a court of law is also a court of equity. It is, therefore, of utmost necessity that



when a party approaches a High Court, he must place all the facts before the Court without any reservation. If there is suppression of material facts on the part of the applicant or twisted facts have been placed before the Court, the writ court may refuse to entertain the petition and dismiss it without entering into merits of the matter.”

14. *In Udyami Evam Khadi Gramodyog Welfare Sanstha and Another v. State of Uttar Pradesh and Others², this Court has reiterated that the writ remedy is an equitable one and a person approaching a superior court must come with a pair of clean hands. Such person should not suppress any material fact but also should not take recourse to legal proceedings over and over again which amounts to abuse of the process of law.”*

23. Prerogative writs are issued for doing substantial justice. Hence, petitioners approaching the writ court must exercise due diligence; approach with clean hands by placing all the material facts before the court without concealing or suppressing anything. The courts would be knowing the law and not the facts and if a litigant were to suppress the facts and attempt to snatch an order from the court, cannot go scot-free or in other words, such



litigant requires to be dealt with deft and iron hands and in such circumstances, the court would be performed to impose costs on such persons. Though in the normal course, we would have desisted from making any observation in this regard, the facts unfolded in the present case including the conduct of the petitioners would not inspire confidence in us except observing that petitioners cannot be extended the benefit of doubt. The pleas put-forth in the writ petition do not disclose about petitioner Nos.1, 2 and 3 being rustic villagers or illiterate persons or not being well conversant with the procedural law and particularly petitioner No.4 who is said to be an Environmental Researcher who is required to exercise utmost care and caution while espousing a public cause. The Hon'ble Apex Court in the case of **K.D. Sharma vs. Steel Authority of India Limited and Others [(2008) 12 SCC 481]** has observed thus:

“39. If the primary object as highlighted in Kensington Income Tax Commissioners is kept in mind, an applicant who does not come with candid facts and `clean breast' cannot hold a



writ of the Court with `soiled hands'. Suppression or concealment of material facts is not an advocacy. It is a jugglery, manipulation, maneuvering or misrepresentation, which has no place in equitable and prerogative jurisdiction. If the applicant does not disclose all the material facts fairly and truly but states them in a distorted manner and misleads the Court, the Court has inherent power in order to protect itself and to prevent an abuse of its process to discharge the rule nisi and refuse to proceed further with the examination of the case on merits. If the Court does not reject the petition on that ground, the Court would be failing in its duty. In fact, such an applicant requires to be dealt with for contempt of Court for abusing the process of the Court."

24. The judgment of **Vijay vs. State of Maharashtra** referred to supra would not come to the rescue of the petitioners in view of our opinion expressed with regard to retrospective operation by applying the principles laid down by the Hon'ble Apex Court in the case of **SEBI vs. Rajkumar Nagpal** referred to supra.

25. In the case of **Dnyandeo Sabaji Naik and Another vs. Pradnya Prakash Khadekar and Others [(2017) 5 SCC 496]**, Hon'ble Apex Court has held that where any attempt by litigant to abuse the process of the



law is made, it must be viewed seriously as sanctity of the judicial process will be seriously eroded if such attempts are not dealt with firmly. It has also been held that a litigant who takes liberties with the truth or with the procedures of the Court should be left in no doubt about the consequences to follow, so that others would not venture along the same path in the hope or on a misplaced expectation of judicial leniency. It has been further held:

“14. Courts across the legal system - this Court not being an exception - are choked with litigation. Frivolous and groundless filings constitute a serious menace to the administration of justice. They consume time and clog the infrastructure. Productive resources which should be deployed in the handling of genuine causes are dissipated in attending to cases filed only to benefit from delay, by prolonging dead issues and pursuing worthless causes. No litigant can have a vested interest in delay. Unfortunately, as the present case exemplifies, the process of dispensing justice is misused by the unscrupulous to the detriment of the legitimate. The present case is an illustration of how a simple issue has occupied the time of the courts and of how successive applications have been filed to prolong the inevitable. The person in whose favour the balance of justice lies has in the process been left in the lurch by repeated attempts to revive a stale issue. This tendency can be curbed only if courts across the



system adopt an institutional approach which penalizes such behavior. Liberal access to justice does not mean access to chaos and indiscipline. A strong message must be conveyed that courts of justice will not be allowed to be disrupted by litigative strategies designed to profit from the delays of the law. Unless remedial action is taken by all courts here and now our society will breed a legal culture based on evasion instead of abidance. It is the duty of every court to firmly deal with such situations. The imposition of exemplary costs is a necessary instrument which has to be deployed to weed out, as well as to prevent the filing of frivolous cases. It is only then that the courts can set apart time to resolve genuine causes and answer the concerns of those who are in need of justice. Imposition of real time costs is also necessary to ensure that access to courts is available to citizens with genuine grievances. Otherwise, the doors would be shut to legitimate causes simply by the weight of undeserving cases which flood the system. Such a situation cannot be allowed to come to pass. Hence it is not merely a matter of discretion but a duty and obligation cast upon all courts to ensure that the legal system is not exploited by those who use the forms of the law to defeat or delay justice. We commend all courts to deal with frivolous filings in the same manner.”

26. In fact, abuse of process of the court or anything done in oblique motive has been held by the Hon’ble Apex Court as interfering with the administration of justice and the polluters of judicial firmament are required to be well taken care of. It has been held :



“The polluters of judicial firmament are required to be well taken care of to maintain the sublimity of court’s environment; so also to enable it to administer justice fairly and to the satisfaction of all concerned. Such persons are required to be properly dealt with, not only to punish them for the wrong done, but also to deter others from indulging in similar acts which shake the faith of people in the system of administration of justice.”

27. For these myriad reasons, we are of the considered view that the petitioners are to be mulcted with costs.

28. For the reasons aforesated, we proceed to pass following

ORDER

- (i) Writ petition is hereby dismissed with costs;
- (ii) Petitioners are directed to pay a sum of Rs.50,000/- (Rupees Fifty Thousand only) payable to respondent No.1 for being utilised for the welfare of project displaced persons, if any.

(ARAVIND KUMAR, CJ)

(ASHUTOSH J. SHASTRI, J)

GAURAV/BH/AM