

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/WRIT PETITION (PIL) NO. 253 of 2016****With
R/WRIT PETITION (PIL) NO. 6 of 2017**

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SIDDHARAJ SINH MAHAVIR SINH CHUDASAMA & ANR.
Versus
STATE OF GUJARAT & ORS.

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Appearance:

MM BEG(8096) for the Applicant(s) No. 2
 MR BHUNESH C RUPERA(3896) for the Applicant(s) No. 1
 ADVANCE COPY SERVED TO MR GH VRIK GOVERNMENT PLEADER
 with MS DHARITRI PANCHOLI AGP for the Opponent(s) No. 1
 HARSHESH R KAKKAD(7813) for the Opponent(s) No. 10,4,5,6,7,8,9
 MR RC KAKKAD(389) for the Opponent(s) No. 10,4,5,6,7,8,9
 MR VISHWAS K SHAH(5364) for the Opponent(s) No. 11
 NOTICE SERVED for the Opponent(s) No. 1,2,3

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**CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
 SUNITA AGARWAL**
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 10/01/2025

ORAL ORDER
**(PER : HONOURABLE THE CHIEF JUSTICE
 MRS. JUSTICE SUNITA AGARWAL)**

1. Mr. Harshesh Kakkad, learned advocate has put in appearance on behalf of the respondents No.5 to 11, who are the private persons claiming to be traders of kite and cotton thread manjhas in the district Ahmedabad. It is sought to be submitted that in none of the previous orders of this Court or the order of the National Green Tribunal (NGT), there was any reference of glass coated threads being prohibited or banned from being used in kite flying. The submission is that in the directions issued in the order dated 08.01.2025 (paragraph No.'11' thereof) are required to be modified accordingly).

2. Taking note of the above, we may record the directions issued by the Division Bench of this Court in Paragraph No.'11' of the judgement and order dated 13.01.2017 which reads as under:-

- “ 1.Respondent nos.1 to 3 - State of Gujarat and its authorities shall take all possible steps to prohibit the use of Chinese lanterns during the festival of Uttarayana.
2. They are further directed to take all possible steps to prevent manufacture, storage and use of nylon threads (Chinese threads and Chinese manza) and any other synthetic threads coated with glass for the purpose of kite flying.
3. As much as the government has already issued instructions by Circular dated 17 th December 2016 and further Commissioners of Police, Superintendents of Police and District Magistrates have issued notifications as contemplated under Section 144 of the Code of Criminal Procedure, respondent nos. 1 to 3-State respondents are directed to take all possible steps to enforce such circular and notifications issued under Section 144 of the Code of Criminal Procedure strictly and scrupulously.
4. State and its authorities are directed by using print and electronic media to create awareness among the citizens about such notifications issued by the competent authorities prohibiting the use of Chinese manza, plastic threads coated with glass and other dangerous substances and Chinese lanterns during kite flying on the festival of Uttrarayan.
5. Further State authorities are directed to take steps against the manufacturers/storekeepers and those stocking and selling nylon thread which is called as Chinese manza or dori and other synthetic threads coated with glass and

harmful substances for the purpose of kite flying.”

3. From a perusal of the directions contained in the order of the Division Bench of this Court, it is more than evident that categorical directions had been issued to the State authorities to take all possible steps to prevent manufacture, storage and use of and use of nylon threads (Chinese threads and Chinese manjha) and any other synthetic threads coated with glass for the purpose of kite flying. The direction has been issued to the State authorities to publicize the notifications issued by the competent authority prohibition such material including threads coated with glass during kite flying on the festival of Uttarayan. The submission of the learned advocate for the private respondents is that the threads coated with glass have not been prohibited by the NGT, therefore, would not be helpful to the private respondents. Moreover, from the perusal of the Notification dated 24.12.2024, as noted in the order dated 08.01.2025, it is clear that the State has declared a complete ban on the manufacturing and sale of Chinese lantern, nylon and plastic dori and threads coated with glass and other harmful substance.
4. The prayer of the learned counsel for the private respondents No.5 to 11 to modify the directions contained in the order dated 08.01.2025 to exclude glass quoted threads from the ban imposed by the State Government is, therefore, turned down.
5. The further contention based on the directions contained in the order dated 13.01.2017 of the Division Bench to

classify two categories of threads, namely the threads coated with glass, namely synthetic and cotton threads is wholly misconceived. The contention of the learned counsel for the petitioner, at this stage, is that since there is no reference of cotton threads coated with glass in the directions contained in judgement and order dated 13.01.2017, there cannot be any restraint. This submission is neither here nor there, inasmuch as, the learned counsel for the respondent could not argue that the cotton threads coating with glass cannot be said to be coating with harmful substance and it would not be dangerous to human beings and birds.

6. Moreover, the Government Resolution dated 24.12.2024 does not make any classification between synthetic threads and cotton threads and all types of threads coated with glass and other harmful substance have been prohibited.
7. We may clarify that we are only concerned with the implementation of the prohibition/ban imposed by the State Government, in its letter and spirit by the executing authorities. All contentions made by the learned counsel for the private respondents in the direction that the cotton threads coated with glass are not included in the ban are found to be wholly misconceived and hence rejected.
8. Further, from the affidavit of the Under Secretary, Home Department, Government of Gujarat, it is sought to be submitted that during the raids conducted between 01.01.2025 to 08.01.2025, 34 manufacturing units indulged in manufacturing banned items have been

nabbed apart from individuals picked for the offence. A plan has been prepared for continuous monitoring by conducting raids between 11.01.2025 till the date of Uttarayan i.e. 15.01.2025 even during evening hours. A dedicated team of local police force has been constituted to ensure that manufacturing and sale of prohibited articles is stalled efficiently.

9. Taking note of the results of the raids conducted by the authorities between 01.01.2025 to 08.01.2025, it seems that though some improvement could be shown in the implementation of the ban, but effective steps still have to be undertaken. The main culprits are the manufacturers and if they are let free, only nabbing the seller or purchaser would not be helpful. All possible efforts shall be made to find out the manufacturers and nab them by conducting raids in a timely manner. The results of the action taken by the authorities shall be brought before the Court by 13.01.2025, by filing the affidavit of the Under Secretary, Home Department, Government of Gujarat
10. It is pointed out by the learned counsel for the petitioner that the advertisement notifying the ban appended with the affidavit of the Under Secretary, Home Department, Government of Gujarat dated 10.01.2025 does not indicate the ban on other synthetic/nylon threads, cotton and other threads coated with glass and other harmful substances. The advertisement only refers to 'Chinese dori', which does not give correct and complete picture of the ban to the public at large.

11. Mr. G.H.Virk, learned Government Pleader would submit that necessary corrections would be made in the advertisement and hoardings published through all means forthwith and the new advertisement shall incorporate names of all prohibited substances as indicated in the Government Resolution dated 24.12.2024.

(SUNITA AGARWAL, CJ)

(PRANAV TRIVEDI,J)

SUDHIR