



सत्यमेव जयते

**JUSTICE D. A. MEHTA
COMMISSION OF INQUIRY**

R E P O R T

**Into
The Incident of Fire
at
Shrey Hospital, Ahmedabad
on
06.08.2020**



सत्यमेव जयते

**JUSTICE D. A. MEHTA
COMMISSION OF INQUIRY**

R E P O R T

**Into
The Incident of Fire
at
Shrey Hospital, Ahmedabad
on
06.08.2020**

**THIS REPORT HAS BEEN
PRINTED ONLY ON ONE SIDE
OF PAGE AND THE REVERSE
SIDE OF EVERY PAGE HAS
BEEN INTENTIONALLY LEFT
BLANK.**

ACKNOWLEDGMENT

I gratefully acknowledge the cooperation extended by:

- ❖ Shri Bhupendrasinh Chudasama, Hon'ble Minister for Education, Law, etc
- ❖ Shri Pradipsinh Jadeja, Hon'ble Minister for Home, etc.
- ❖ Shri Kamal Trivedi, Learned Advocate General
- ❖ Ms. Manisha Lavkumar Shah, Learned Government Pleader
- ❖ Shri Pankaj Kumar, Addl. Chief Secretary, Home
- ❖ Shri Mukesh Puri, Addl. Chief Secretary, Urban Development
- ❖ Shri Anand Jinjala, Secretary, Urban Development
- ❖ Shri Ratilal Vasava, Deputy Secretary, Urban Development
- ❖ Shri Pankaj Joshi, Addl. Chief Secretary, Finance
- ❖ Shri Milind Torwane, Secretary, Finance

- ❖ Shri Mukesh Kumar, Municipal Commissioner, Ahmedabad
- ❖ Shri Mayur Chavda, IPS, Superintendent of Police, Gandhinagar
- ❖ Shri K. K. Bishnoi, Acting Director, Fire & Emergency Services, Gujarat
- ❖ Shri P. P. Vyas, Consultant, Fire & Emergency Services, Gujarat

I also acknowledge the sincere and unstinted support from my team of the Fee Revision Committee, Gandhinagar, namely:

- ❖ Shri Hemant P. Agrawal
- ❖ Ms. Gopi Ashokbhai Patel
- ❖ Shri Dipakkumar R. Parmar
- ❖ Ms. Nehaben Pratapbhai Barad
- ❖ Ms. Ishani Harishkumar Joshi
- ❖ Ms. Anitaba Gopalsinh Jethwa
- ❖ Shri Vishnubhai K. Parmar
- ❖ Shri Gautambhai M. Sisodiya
- ❖ Ms. Hansaben D. Makwana

without whom it would not have been possible to prepare and draft this report within this time frame.

Ofcourse, the sincere hard work put in by:

- ❖ Shri Giriraj Kanubhai Upadhyay, Secretary of the Commission, and
- ❖ Dr. Shri Harshvardhansinh R. Jadeja, Disbursal and Drawing Officer,

regardless of the time, whether a working day or a holiday cannot be lost sight of – heartfelt gratitude.

And last, but not the least, I am grateful to all my family members for constant support and cooperation.

GANDHINAGAR

JUSTICE D. A. MEHTA

I N D E X

| <u>Chapter</u> | <u>Contents</u> | <u>Page Nos.</u> |
|-----------------------|------------------------|-------------------------|
| I | INTRODUCTION | 1 - 18 |
| II | FACTS AND EVIDENCE | 19 - 141 |
| III | CAUSE | 142 - 150 |
| IV | NEGLIGENCE | 151 - 154 |
| V | RECOMMENDATIONS | 155 - 219 |
| VI | SUMMARY | 220 - 232 |

1

1. On 27/11/2020 an incident of Fire took place at Uday Shivanand Hospital Rajkot wherein 5 (five) Covid-19 patients expired. Considering the gravity of the incident, Government of Gujarat (GOG) entrusted Preliminary Inquiry to One Member Committee consisting of Shri A. K. Rakesh, IAS, Additional Chief Secretary, Panchayats, Rural Housing and Rural Development Department.
2. Subsequent thereto, in exercise of power conferred by Section 3 of the Commissions of Inquiry Act, 1952 (the Inquiry Act) GOG appointed a Commission of Inquiry constituted by the undersigned to inquire into and report on and in respect of the Incident of Fire at Uday Shivanand

2

Hospital, Rajkot vide Notification number GK/34/2020/COI/102020/147/A dated 30th November, 2020. The terms of reference of the Commission are as under:

- "A. To inquire into exact sequence of events leading to the incident of fire which occurred on 27/11/2020 at Uday Shivanand Hospital, Rakot and the causes of the aforesaid incident;*
- B. Adequacy of fire safety measures existing at Uday Shivanand Hospital at the time of incident;*
- C. To ascertain whether the said incident of fire and the resultant deaths were the result of negligence or breach of duty on part of any one or more authorities or individuals.*
- D. To recommend suitable measures to prevent recurrence of such incidents."*

Paragraph No. 3 of the Notification reads as under:

3

"3. The commission should complete the inquiry and submit its report to the State Government within three months from the date of this notification."

The period of three months would thus expire on 28th February, 2021.

- 3.** Before the undersigned could take charge and commence the work of the Commission, GOG issued one more Notification, number GK/36/2020/COI/102020/155/A dated 11th December, 2020 appointing a Commission of Inquiry constituted by the undersigned to inquire into the Incident of Fire that took place at Shrey Hospital, Navrangpura, Ahmedabad on 06/08/2020 wherein 8 (eight) Covid-19 patients expired.

4. It may be noted that the Incident of Fire took place on 06/08/2020 and GOG directed a Preliminary Inquiry to be carried out by a Committee comprised of Ms. Sangeeta Singh, IAS, Additional Chief Secretary, Home Department and Shri Mukesh Puri, IAS, Additional Chief Secretary, Urban Development and Urban Housing Department. Pursuant to the report of the said Committee, GOG vide Notification number GK/21/2020/COI/102020/101/A had appointed a Commission of Inquiry consisting of Hon'ble Justice K. A. Puj, Former Judge of the High Court of Gujarat. However, vide the aforesaid Notification number GK/36/2020/COI/102020/155/A dated 11th December, 2020 the earlier

5

Notification dated 11th August, 2020 was superseded.

5. The terms of reference for the Commission of Inquiry constituted by the undersigned vide Notification dated 11th December, 2020 read as under:

- "A. To inquire into exact sequence of events leading to the incident of fire which occurred on 06/08/2020 at Shrey Hospital, Navrangpura, Ahmedabad and the causes of the aforesaid incident;*
- B. Adequacy of fire safety measures existing at Shrey Hospital at the time of incident;*
- C. To ascertain whether the said incident of fire and the resultant deaths were the result of negligence or breach of duty on part of any one or more authorities or individuals.*
- D. To recommend suitable measures to prevent recurrence of such incidents."*

Paragraph No. 3 of the Notification reads as under:

"3. The commission should complete the inquiry and submit its report to the State Government within three months from the date of this notification."

The period of three months would thus expire on 11th March, 2021.

- 6.** On 15th February, 2021 a common Application was made, seeking extension of time to complete the inquiry and submit the Reports, in the following words:



/c

માન. જસ્ટીસ ડી.એ. મહેતા તપાસ પંચ

(ઉદય શિવાનંદ હોસ્પિટલ-રાજકોટ અને શ્રેય હોસ્પિટલ-અમદાવાદની આગની ઘટના અંગે)

પ્રથમ માળ, STTI ભવન GCERT કંપ્લેક્સ સેક્ટર-૧૨ ગાંધીનગર-૩૮૨૦૧૬.

Email: damjinquirycomm@gmail.com

અવકાશ નં: Inq Com/ ૩૪૪-૩૪૫/૨૦૨૧

તારીખ 15/02/2021

To:

Additional Chief secretary,
Urban Development and Urban Housing Development,
New Sachivalaya,
Gandhinagar



Sub : Extension of Time to complete the Inquiry and Submit the Reports

Reff. :1) Notification No. GK/34/2020/COI/102020/147/A, Dated 30th November, 2020 of Legal Department of Government of Gujarat, in relation to the Fire Incident at Uday Shivanand Hospital- Rajkot
2) Notification No. GK/36/2020/COI/102020/155/A, Dated 11th December, 2020 of Legal Department of Government of Gujarat, in relation to the Fire Incident at Shrey Hospital- Ahmedabad

Sir,

The above referred two Notifications contain identical paragraph number 3 which reads as under:

"The Commission should complete the inquiry and submit its report to the State Government within three months from the date of this notification."

Therefore, the three months period from the dates of Respective Notifications would expire: on 28/02/2021 for the Notification relating to the Incident of Fire which took place at Uday Shivanand Hospital, Rajkot; and on 11th March, 2021 for the Notification in relation to the incident of Fire which took place at Shrey Hospital, Ahmedabad.

Extension of time is sought for in light of the fact that considering the number of closed Saturdays, Sundays and other public holidays a period of 21 days gets deducted from the total period of three months.

mb
9/12/21
Clerk
Urban Development &
Urban Housing Department
Sachivalaya, Gandhinagar

Furthermore, as can be seen from the record the Secretary of the Commission of Inquiry was appointed only on 21st December, 2020, while other staff like D.D.O, Accounts Officer etc. came to be appointed only in the first week of January 2021.

Despite the fact that there was delay in appointment of the staff of the Commission of Inquiry, the collection of evidence is almost complete. The Commission of Inquiry therefore, requires time to draft and finalize the Reports to be submitted.

In light of foregoing, the period of three months for both the notifications may be appropriately extended upto 31st March, 2021.



G. K. Upadhyay
(Giriraj k Upadhyay) 15/02/2021
Secretary
Hon'ble Justice D A Mehta Commission
of Inquiry
Gandhinagar

- 7.** Vide two identically worded Notifications, both dated 25th February, 2021, Government of Gujarat amended Paragraph number 3 of each of the Original Notifications vide Notification No. GK/4/2021/COI/102021/147/A for Uday Shivanand Hospital, Rajkot, and Notification No. GK/3/2021/COI/102021/155/A for Shrey Hospital, Ahmedabad as under:

"In the said notification, in paragraph 3, for words, figures and letters "within three months from the date of this notification." the words, figures and letters "on or before the 31st March, 2021." Shall be substituted."

- 8.** The undersigned took charge on 15th December, 2020. As there were no office premises for the Commission of Inquiry,

10

the undersigned, who was also appointed as the Chairperson of the Fee Revision Committee under the Provisions of Gujarat Self-financed Schools (Regulation of Fees) Act, 2017 orally requested Shri. Bhupendrasinh Chudasama, Hon'ble Minister for Education, Law, etc. to permit the undersigned to use the office premises of the Fee Revision Committee at Gandhinagar for the purpose of the work of the Commission of Inquiry. The Hon'ble Minister immediately permitted orally to use the office premises of the Fee Revision Committee at Gandhinagar. Hence, on 14th December, 2020 the undersigned took charge as Chairperson of the Fee Revision Committee in light of Resolution number

11

BMS/1217/558/FRC dated 10th December, 2020.

- 9.** Vide letter dated 14th December, 2020 bearing number AMN/102020/4076/P/L1 it was ordered that the office of Justice K. A. Puj Inquiry Commission should be immediately closed down and the entire record, budget, office premises etc. should be returned. Pursuant thereto under letter dated 16th December, 2020 the record was handed over to This Commission.
- 10.** On 21st December, 2020 vide Resolution number AMN/102020/4755/P/L1 sanction was granted for commencement of the office of This Commission.
- 11.** Vide Notification dated 21/12/2020 issued by the Legal Department, Shri Giriraj

12

Kanubhai Upadhyay, Former District Judge, was appointed as Secretary of This Commission. Pursuant thereto, Shri Giriraj Kanubhai Upadhyay was declared to be the Head of the Office for the purpose of all Administrative and Financial Matters relating to This Commission vide Resolution dated 21/12/2020.

12. Shri Giriraj Kanubhai Upadhyay having taken charge on 21st December, 2020 as Secretary of the Commission, Office Order dated 22nd December, 2020 which reads as under, was issued by the undersigned determining the duties of Shri Giriraj Kanubhai Upadhyay as Secretary of the Commission.



માન.જસ્ટીસ ડી.એ.મહેતા તપાસ પંચ

(ઉદય શિવાનંદ હોસ્પિટલ-રાજકોટ અને શ્રેય હોસ્પિટલ-અમદાવાદની આગની ઘટના અંગે)

પ્રથમ માળ, STTI ભવન, GCERT કોમ્પ્લેક્સ, સેક્ટર-૧૨, ગાંધીનગર-૩૮૨૦૧૬.

જાવક નં: Inq Com/ 01/2020

તા.: 22/12/2020

Office Order

It is here by ordered that as per Notification No. GK/38/2020/COI/102020/101/A dated 21st December, 2020 of Legal Department, Government of Gujarat Gandhinagar, Shree Giriraj Kanubhai Upadhyay, Former District Judge is appointed as Secretary of this Commission and he took over charge on same day.

Urban Development and Urban Housing Department of Gujarat, Gandhinagar has declared, Shree Giriraj Kanubhai Upadhyay, Head of the Office of the commission by Resolution no. AMN/102020/4755/P/L1 dated 21/12/2020. The Secretary of the Commission shall be in charge of the office of the Commission.

He shall have power and authority to send and receive communications on behalf of the Commission and to receive Statements, Affidavits, Applications etc. that may be filed before the Commission. The Notifications, Notices, Processes, Requisitions and other Directions ordered to be issued by the Commission shall be signed by the Secretary of the Commission.



D A Mehta


(Justice D A Mehta)

Hon. Justice D A Mehta Commission of Inquiry
For Shrey Hospital, Ahmedabad
& Uday Shivanand Hospital, Rajkot

To:

Shree Giriraj Kanubhai Upadhyay
Secretary of the Commission.

13. On 22nd December 2020, the following Order was also issued:



માન.જસ્ટીસ ડી.એ.મહેતા તપાસ પંચ

(ઉદય શિવાનંદ હોસ્પિટલ-રાજકોટ અને શ્રેય હોસ્પિટલ-અમદાવાદની આગની ઘટના અંગે)
પ્રથમ માળ, STTI ભવન, GCERT કેમ્પસ, સેક્ટર-૧૨, ગાંધીનગર-૩૮૨૦૧૬.


Date: 22/12/2020


ORDER

It is here by ordered that the Commission shall conduct its sittings in private in light of the prevailing pandemic situation, so that the prescribed norm of social distancing can be followed and implemented.

This order is made under Rule 2 of The Gujarat Commissions of Inquiry(Procedure) Rules, 1969.

By order and in the name of Hon'ble Justice D A Mehta Commission of Inquiry.





Giriraj K Upadhyay,
Secretary,
Hon'ble Justice D A Mehta Commission of Inquiry

14. Public notices to be issued and published for Shrey Hospital, Ahmedabad under Rule 3 of the Gujarat Commissions of Inquiry (Procedure) Rules 1969 (the Gujarat Rules) were sent on 22nd December, 2020. to the Information Department Government of Gujarat for publication in Gujarati Language in Divyabhaskar daily newspaper, Ahmedabad edition as well as in English Language in Times of India daily newspaper, Gujarat edition. The said Notifications came to be published on 25th December, 2020.

15. On 04th January, 2021 the undersigned wrote to the Additional Chief Secretary, Home Department, Gandhinagar requesting to permit utilization of services

16

of an officer in terms of provisions of Section 5A of the Inquiry Act. The said communication reads as under:



17



માન. જસ્ટીસ ડી.એ. મહેતા તપાસ પંચ

(ઉદય શિવાનંદ હોસ્પિટલ-રાજકોટ અને શ્રેય હોસ્પિટલ-અમદાવાદની આગની ઘટના અંગે)

પ્રથમ માળ, STTI ભવન GCERT કમ્પ્લેક્સ વેસ્ટ-૧૨ સુપ્રીનક્સ-૩૬૨૬૧૬.

Email: damjinquirycomm@gmail.com

29

જાણકારી: Inq Com/ 68 - 69 /2021

તા. 04/01/2021

MOST URGENT

To:
Addl Chief secretary,
Home department,
Gandhinagar.

Sub : Request to permit utilization of services of an officer
Ref : Section 5-A of The Commissions of Inquiry Act, 1952

Dear Sir,

The undersigned has been appointed by the Govt. of Gujarat to inquire into the incidents of fire which took place at :

- (A) Uday Shivanand Hospital, Rajkot vide Notification No. GK/34/2020/COI/102020/147/A Dated 30th November, 2020.
(B) Shrey Hospital, Ahmedabad vide Notification No. GK/36/2020/COI/102020/155/A Dated 11th December, 2020

The Commission has to first collect, and then to sift evidence and material before it involving enormous preliminary investigation. This is a task which cannot humanly be performed by the Commission if the task has to be finished within a limited time. In the present case the time limit is three months each from the date of the respective Notifications.

Hence, kindly permit the undersigned to utilize the services of Shri Mayursinhji Chavda, Superintendent of Police, Gandhinagar for the purpose of conducting investigation pertaining to the inquiry in terms of provisions of Section 5-A of The Commissions of Inquiry Act, 1952.

Thanking You.

OIC

D. A. Mehta

(Justice D. A. Mehta)

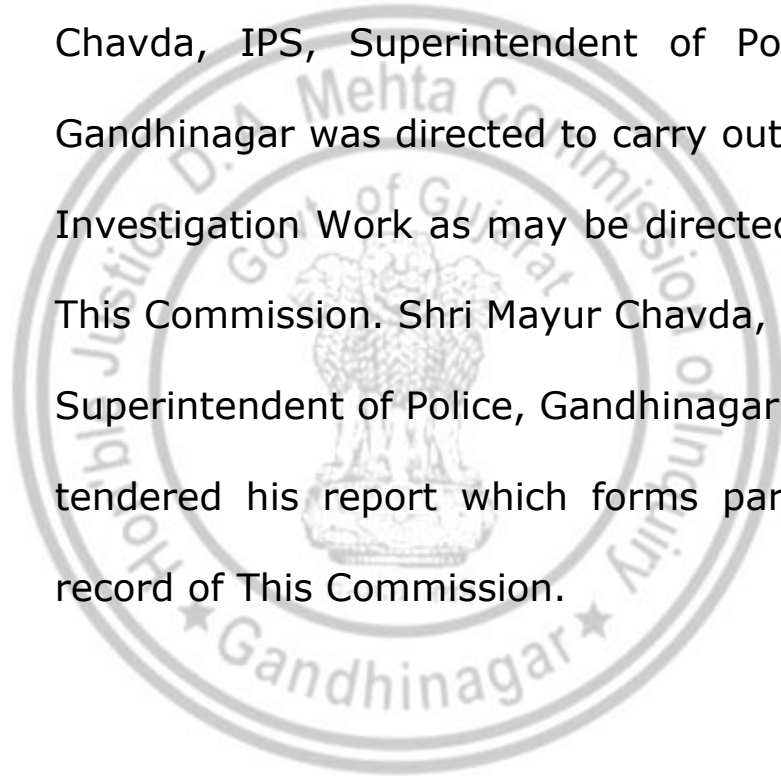
Justice D. A. Mehta Commission of Inquiry,
(For Uday Shivanand Hospital, Rajkot &
Shrey Hospital, Ahmedabad)

27/12/20



18

- 16.** Immediately on the next day, i.e. 05th January, 2021 vide communication from the Additional Chief Secretary, Home Department, the request made by the undersigned was accepted and Shri Mayur Chavda, IPS, Superintendent of Police, Gandhinagar was directed to carry out the Investigation Work as may be directed by This Commission. Shri Mayur Chavda, IPS, Superintendent of Police, Gandhinagar has tendered his report which forms part of record of This Commission.



17. On 2nd January, 2021 summons were issued to the following persons to remain present at the time of Visit and Local Investigation of the affected premises of Shrey Hospital, Ahmedabad on 8th January, 2021 in terms of Rule 4A of the Gujarat Rules:

- I. Haiderali Husainali Khoja, Chief Electrical Inspector, Gandhinagar
- II. M.F. Dastoor, Chief Fire Officer, Ahmedabad Municipal Corporation
- III. Dr. Om Prakash, I.A.S., Dy. Municipal Commissioner- Health, Ahmedabad Municipal Corporation
- IV. H.P. Sanghvi, Additional Director, FSL-Gandhinagar
- V. Chetankumar Chhibabhai Patel, Assistant Director, FSL-Ahmedabad

VI. Senior Police Inspector (First),
Navrangpura, Ahmedabad

18. Furthermore a request letter was also issued to Additional Chief Secretary, Urban Development And Urban Housing Development, Gandhinagar to give directions to the Concerned Officers at Ahmedabad regarding the visit of This Commission at Ahmedabad on 8th January, 2021.

19. The undersigned along with the officers of This Commission visited the affected premises at Shrey Hospital, Ahmedabad on 8th January, 2021, and the necessary Panchnama for the same has been drawn. The same is part of the record.

21

20. In the visit which This Commission undertook for making local inspection for the affected premises of Shrey Hospital, Ahmedabad, the officers of This Commission, as directed by This Commission, carried out certain videography and also still photography. The said video recording and the photographs form part of record of This Commission.

21. Thereafter, the following 21 (twenty-one) persons have tendered their statements on Affidavit along with Annexures pursuant to notice issued to them under Rule 3 (a) of the Gujarat Rules. These Affidavits along with Annexures form part of the record.

SHREY HOSPITAL**EVIDENCE COLLECTED BY WAY OF**
AFFIDAVITS / STATEMENTS

| SR. NO. | NAME OF PERSON |
|----------------|--|
| 1. | Shri. M. F. Dastoor (Chief Fire Officer Ahmedabad) |
| 2. | Shri. Hitesh Jayantilal Trivedi (In charge Assistant Director) (Directorate of Forensic Science Gandhinagar) |
| 3. | Shri. Chintan Sanjaykumar Modi Scientific Officer (Chemical Division) FSL Ahmedabad |
| 4. | Shri. Chetankumar Chhibabhai Patel Assistant Director (Physics Division) FSL Ahmedabad(Two Affidavits) |
| 5. | Shri. Haidar Ali Hussien Ali Khoja Chief Electrical Inspector, Gandhinagar |
| 6. | Dr. Ravindra Patel DCP Zone-1 Ahmedabad (Affidavit with charge-sheet) |
| 7. | Dr. Om Prakash, IAS Deputy Municipal Commissioner (Health, Hospital and Covid care) Ahmedabad Municipal Corporation |

23

| | |
|-----|---|
| 8 | Dr. Manishkumar Bansal, IAS Ex.-OSD Ahmedabad Municipal Corporation |
| 9. | Dr. Divyang P. Oza Registrar, births and deaths (two Affidavits) Ahmedabad Municipal Corporation (Two Affidavits) |
| 10. | Chaitanya J. Shah Deputy Estate Officer Ahmedabad Municipal Corporation |
| 11. | Shri. Bharat Vijaydasji Mahant (Two Affidavits Shrey Hospital Management) |
| 12. | Dr. Divyesh Sanghani (Two Affidavits Shrey Hospital Management) |
| 13. | Dr. Bhargav B. maharaja (Two Affidavits Shrey Hospital Management) |
| 14. | Dr. Kirtipal N. vishana (Two Affidavits Shrey Hospital Management) |
| 15. | Vishnubhai Narayandas Sindhi (Patient's Relative) |
| 16. | Prashant Manubhai Rami (Patient's Relative) |
| 17. | Samir Abdulbhai Mansoori (Patient's Relative) |
| 18. | Rajesh Chandrakantbhai Shah (Patient's Relative) |
| 19. | Mohammad Suhel Moiyubin Tirmizi (Patient's Relative) |

24

| | |
|-----|---|
| 20. | Kalpiti Yogeshbhai Shah (Patient's Relative) |
| 21. | Himanshubhai Arvindbhai Bhavsar (Patient's Relative) |

22. Subsequent thereto, the undersigned, after going through the averments made in the Affidavits filed by different persons as well as all the Annexures filed along with the Affidavits, and the documentary evidences available with the Charge Sheet filed by the Police, examined some of the following persons. While a few of the following persons were examined, under directions of This Commission, by Shri Mayur Chavda, I.P.S. Superintendent of Police, Gandhinagar. The examination was conducted in presence of Shri Hitesh Raval, District Government Pleader, Gandhinagar District, who had been appointed vide

25

communication dated 13th December, 2020, whereby Shri Hitesh Raval had been directed to represent the State Government before the Inquiry Commission. These Depositions also form part of the record.

SHREY HOSPITAL
EVIDENCE IN THE FORM OF
EXAMINATION / CROSS EXAMINATION

| SR. NO. | NAME OF PERSON |
|----------------|---|
| 1. | Shri. M. F. Dastoor (Chief Fire Officer Ahmedabad) (13/01/2021) |
| 2. | Shri. Hitesh Jayantilal Trivedi (16/01/2021) (In charge Assistant Director) (Directorate of Forensic Science gandhinagar) |
| 3. | Shri. Chintan Sanjaykumar Modi Scientific Officer (Chemical Division) FSL, Ahmedabad (16/01/2021) |

26

| | |
|-----|---|
| 4. | Shri. Chetankumar Chhibabhai Patel Assistant Director (Physics Division) FSL Ahmedabad(Two Affidavits) (16/01/2021) |
| 5. | Shri. Chetankumar Chhibabhai Patel Assistant Director (Physics Division) FSL Ahmedabad (Two Affidavits) (23/02/2021) |
| 6. | Shri. Haidar Ali Hussien Ali Khoja Chief Electrical Inspector, Gandhinagar (13/01/2021) |
| 7. | Shri. L. B. Zala ACP 'B' Division Ahmedabad (18/01/2021) |
| 8. | Shri. M. A. Patel ACP 'A' Division Ahmedabad (18/01/2021) |
| 9. | Ms. Vandana Rakeshkumar Manilal Bhatt (13/01/2021)(Admin Staff) |
| 10. | Vipulbhai Pravinbhai Raval (13/01/2021)(Admin Staff) |
| 11. | Vipulbhai Pravinbhai Raval (17/01/2021)(Admin Staff) |
| 12. | Dr. Imrankhan Liyakat Hussain Medical Officer ICU(13/01/2021) |
| 13. | Dr. Mitvaben Pravinbhai Arjanbhai Malaviya (13/01/2021) |

27

| | |
|-----|--|
| 14. | Gaurav Gnaneshwar Kasturchandji Chauhan (Nursing Staff)(13/01/2021) |
| 15. | Gaurav Gnaneshwar Kasturchandji Chauhan (Nursing Staff)(17/01/2021) |
| 16. | Chiragbhai Mukeshkumar Ranchhodbhai Patel (Nursing Staff)(13/01/2021) |
| 17. | Chiragbhai Mukeshkumar Ranchhodbhai Patel (Nursing Staff)(17/01/2021) |
| 18. | Ranvirsinh Ishwarsinh Zala Electrician (17/01/2021) |
| 19. | Ms. Rahelben Joel Samualbhai Christian (17/01/2021) |
| 20. | Dr. Divyangkumar Rashmikantbhai Patel (21/01/2021) |
| 21. | Zalakbhai Pareshbhai Shah Business regarding Fire Safety(21/01/2021) |
| 22. | Mahendrsinh Himmatsinh Sodha(27/01/2021) (Senior Fireman) |
| 23. | Pankajbhai Narendrabhai Brambhatt (27/01/2021)(Jamadar) |
| 24. | Bharat Vijaydasji Mahant (Director Shrey Hospital Pvt. Ltd.) (29/01/2021) |
| 25. | Manishbhai Babubhai Lavingya (M/S N. M. Sales Agency) (02.03.2021) |

23. The following two persons namely,

1. Prashant Manubhai Rami (Patient's Relative)

2. Himanshubhai Arvindbhai Bhavsar (Patient's Relative) have, in response

to summons dated 15th January, 2021

tendered identical Affidavits dated 2nd

February, 2021. Both the persons have

stated that they do not wish to state

anything more than what has already

been stated in Affidavit dated

21/10/2020 (Prashant Manubhai

Rami), and 29/10/2020

(Himanshubhai Arvindbhai Bhavsar).

In the Affidavit dated 21/10/2020

Prashant Manubhai Rami has stated

that the Incident of Fire which took

place on 6th August, 2020 can be

termed as an intentional act of the responsible director of the hospital, staff members of the hospital, responsible employees of Ahmedabad Municipal Corporation and Fire Brigade to kill innocent persons. In support of such averment he has relied on the FIR registered belatedly at Navarangpura Police Station at the end of the fourth day from the day of Incident of Fire, wherein the offence is booked under the provisions of Indian Penal Code which categorize the offence as a bailable offence. Furthermore, it is stated that the hospital staff was not trained to combat fires; certain mobile phones were functional after the Incident of Fire; why was a curtain

30

there between CCTV camera and bed number 9? He has also relied on an FIR recorded by the State Government of Andhra Pradesh in an Incident of Fire which took place in Vijaywada, Andhra Pradesh on 9th August, 2020. He has further asked the Inquiry Commission to inquire into the purchase of Fire Fighting Equipment by looking into the purchase bills, warranty certificates, details regarding payments, etc. According to him there was no inspection or audit of Electrical Wiring and Electrical Equipments. That there was no Fire NOC obtained.

- 24.** Shri Himanshubhai Arvindbhai Bhavsar has also tendered Identical Affidavit dated 29th October, 2020. Though on 04/03/2021 one

letter dated 02/03/2021 has been received by post, purportedly sent by Shri Himanshubhai Arvindbhai Bhavsar, as there is no signature the same has been ignored. Even otherwise, an Affidavit (02/02/2021) cannot be brushed aside by a simple unsigned letter.

- 25.** The remaining five (5) relatives of the deceased patients have filed similar Affidavits wherein, the averments / allegations are more or less similar. There may be slight variation in the language used and the narration of events as well as reliance on different pieces of evidence like insurance policies, article regarding guidelines for intensive care unit design etc. However, in response to the fresh summons dated 15th January, 2021 these

persons have tendered Applications on 1st February, 2021 to furnish certified copies of all papers "*relatable to case*", and on 4th February, 2021 seeking personal visit with personal photographer of the ICU ward of Shrey Hospital.

- 26.** Vide order dated 5th February, 2021 This Commission has not accepted either of the Applications. Subsequent thereto vide Applications dated 9th February, 2021 and 13th February, 2021 the same request has been repeated. These dates may vary in different cases but the gist remains the same. The Applications have come either by way of e-mail, whatsapp and / or registered post. The only difference being, some of them have requested the Inquiry Commission to seek expansion of the

Terms of Reference, while some have said they may themselves approach the State Government to seek expansion of the Terms of Reference. Furthermore, they have also sought permission to be made part of proceedings by the mode of video conferencing. It is required to be noted that out of five such persons at least three have stated that erstwhile Inquiry Commission headed by Justice K.A. Puj had supplied them with copies of documents on record. Thus, the request now made repeatedly to supply the certified copies of the record is either governed by an oblique motive or is absolutely frivolous.

- 27.** The reasons for rejecting the Applications made by these persons as appearing in the

34

order dated 5th February, 2021 are as
under:



માન.જસ્ટીસ ડી.એ. મહેતા તપાસ પંચ
(ઉદય શિવાનંદ હોસ્પિટલ-રાજકોટ અને શ્રેય હોસ્પિટલ-
અમદાવાદની આગની ઘટના અંગે)

પ્રથમ માળ, STTI ભવન, GCERT કેમ્પસ, સેક્ટર-૧૨,
ગાંધીનગર-૩૮૨૦૧૬.

Email: damjinqurycomm@gmail.com

જાવક નં: Inq Com/ - /2021

તા.: 05/02/2021

To:

Vishnubhai Narayandas Sindhi,
Radhakrishn Bunglows, Ramroti Road, Sindhi Society,
Kheralu - 384325

(1) With reference to your e-mail/written
communications dated 01/02/2021 and
04/02/2021 you may please note that this
Commission of Inquiry has all the sympathy
for all that you have had to undergo due to

35

the unfortunate event of Fire which took place on the night of 05-6/08/2020, at Shrey Hospital, Ahmedabad.

(2) In response to the summons issued to you, the communication dated 01/02/2021 has been received on 03/02/2021; and the communication dated 04/02/2021 has been received on 04/02/2021.

(3) The Request made by you cannot be granted for the reasons that follow hereinafter.

(4) It is apparent that this is nothing but a dilatory tactic for a fishing and roving inquiry considering the following sequence of events:

- The fire took place on the night of 05-06/08/2020.*
- The State Government appointed Hon'ble Justice K. A. Puj to constitute a Commission of Inquiry Vide Notification dated 11/08/2020.*
- A notice was issued to you on 16/10/2020 by Justice K.A. Puj Commission of Inquiry.*

36

- You have tendered the Affidavit dated 29/10/2020, comprising 22 paragraphs (14 pages) plus Annexures 'A' to 'E'.
- Subsequent thereto, Justice K. A. Puj Commission of Inquiry had issued Summons dated 03/12/2020 for appearing on 15/12/2020 at 15:00 hours.
- The record does not reveal you having made any such applications in response to the said summons dated 03/12/2020.
- However, in the meantime the State Government in Supersession of earlier Notification dated 11/08/2020 issued a fresh Notification No.
GK/36/2020/COI/102020/155/A dated 11th December, 2020 appointing the undersigned to constitute a Commission of Inquiry.
- Therefore, you were not required to appear before the erstwhile Commission of Inquiry.

37

- Hence, a fresh Summons dated 15/01/2021 was issued requesting to appear on 03/02/2021.
- It is only belatedly at this last moment that you have made these Applications.

Thus, sufficiently reasonable time has been granted. The request for further time now cannot be granted in the aforesaid facts and circumstances.

(5) Section 4 of the Commissions of Inquiry Act, 1952 (the Inquiry Act) reads as under:

S.4.- Power of Commission: - The Commission shall have the powers of a Civil Court, while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely: -

- (a) [Summoning and enforcing the attendance of any person from any part of India] and examining him on oath;
- (b) requiring the discovery and production of any document;

38

- (c) *receiving evidence in affidavits;*
- (d) *requisitioning any public record or copy thereof from any court or office;*
- (e) *issuing Commissions for the examination of witnesses or documents;*
- (f) *any other matter which may be prescribed.*

(6) *The powers under this section have been conferred on the Commission for the purpose of its smooth functioning in its task of collection of facts and materials. It stands to reason that whenever a body or an authority embarks upon the task of collecting facts, the most important way is taking statements of persons and collect documents relating to the issue. Sometimes witnesses may not come forward voluntarily or documents may not be produced by persons who have them in custody. Therefore, the powers under clauses (a) to (c) have been vested to facilitate the Commission in its task. A person who is acquainted with the facts of an event which*

falls within the purview of the terms of reference of Commission of Inquiry is competent to depose before the Commission.

(7) Under Section 4 of the Inquiry Act powers of Civil Court have been vested in a Commission. But a legitimate question may arise here, as to whether Commission of Inquiry has been vested with all the powers of a Civil Court and whether it is a Court in the legal sense of the term. So far as powers are concerned the expression 'in respect of the following matters' circumscribes the powers vested in the Commission. It would be seen that the powers of Civil Court vested in Commission are only in respect of those matters which are enumerated in clauses (a) to (f). That is to say the powers of the Civil Court are only restricted to those specifically mentioned and nothing beyond that. Had the Parliament intended to clothe the Commission with all the powers of Civil Court

it would have said so and stopped there instead of qualifying the conferment of the powers with the expression 'in respect of the following matters.'

(8) *The task before a Commission of Inquiry is quite different from the one before a Civil or Criminal Court. In a civil suit there is plaintiff who puts forward a claim to protect his right. There is a defendant who puts forward his own rival claim. On the basis of these assertions and denials certain issues are raised on which the Civil Court gives its decision on the basis of evidence and material before it. Similarly in criminal trial there is complainant/ informant who asserts the commission of an offence by the accused under some penal law and there is an accused who denies the charges levelled against him. Thus the Criminal Court has a definite set of charge to pronounce its findings on the basis of evidence before it. But a Commission of*

Inquiry is quite different. Here, there is no accuser, no accused, no formal charge to be proved and sometimes the individuals or body of individuals against whom the Commission is to conduct inquiry are not named. There is no lis before the Commission and no definitive finding is to be pronounced.

(9) *Therefore, it is apparent that the powers Under Section 4 (b) of the Inquiry Act relate to the powers a Commission of Inquiry has for the purpose of collecting facts and materials in relation to the terms of the reference for which the Commission has been appointed by the State Government in exercise of powers Under Section 3 of the Inquiry Act. The said provision does not vest any right in any individual or any person, because a Commission of Inquiry does not determine or pronounce upon any right or rights of any person.*

(10) *Section 5(2) of the Inquiry Act stipulates that the Commission shall have the power to require any person, subject to any privilege which may be claimed by such person under any law in force, to furnish information on such points or matters which may be useful for, or relevant to, the subject matter of the Inquiry. The emphasis is on collection of facts which may be useful for, or relevant to, the subject matter of the Inquiry, and not to any facts which are not useful or relevant to the Inquiry.*

(11) *Under Section 8 of the Inquiry Act the Commission shall, subject to any rules that may be made in this behalf, have power to regulate its own procedure (including the fixing of places and times of the sittings and decide whether to sit in public or in private). Under the provisions of this section the Central Government has*

43

framed the Commissions of Inquiry (Central) Rules 1972 (The Central Rules). The said rules are applicable to a Commission of Inquiry appointed by the Central Government Under section 3 of the Inquiry Act.

(12) *Similarly, the Government of Gujarat has framed rules titled as the Gujarat Commissions of Inquiry (Procedure) Rules 1969 (The Gujarat Rules). In these circumstances, this Inquiry Commission, which is appointed Under Section 3 of the Inquiry Act by the State Government, is bound by the Provisions of the Inquiry Act as well as the Gujarat Rules.*

(13) *Assuming for the sake of argument that a contention may be raised that under the Gujarat Rules, Rule-7 empowers the Commission to regulate its own procedure in respect of any matter for which no provision is made in the Gujarat Rules.*

Similar provisions also exists by way of Rule 5(8) of the Central Rules. The term "prescribed" used in clause (f) of section 4 of the Inquiry Act has been defined Under Section 2 (c) of the Inquiry Act to mean prescribed by rules made under this Act.

Therefore, what has not been prescribed by the Central Rules or the Gujarat Rules cannot be incorporated as a matter falling under Rule 7 of the Gujarat Rules.

(14) It requires to be noted that Rules can be framed only to give effect to and in furtherance of the main statute, i.e. the Act under which the Rules are framed. The position in law is well settled that no rules can be framed so as to either be contrary to the provisions of the Act or so as to expand or modify any provision of the main statute, i.e. the Act. The Rules cannot go beyond the Act.

(15) *What is provided in section 8-B of the Inquiry Act r/w Section 8-C of the Inquiry Act has been incorporated by the State Government as Rule 5 and Rule 6 respectively of the Gujarat Rules. A close reading of Sections 8B and 8C of the Inquiry Act as well as Rules 5 and 6 of the Gujarat Rules makes it abundantly clear that the right of cross-examination is available under the Inquiry Act and the Gujarat Rules only to the State Government and every person referred to in Rule 5 of the Gujarat Rules. The person referred to in Rule 5 of Gujarat Rules is a person who is likely to be prejudicially affected. The phrase 'prejudicially affected' has been qualified by the words "if at any stage of the inquiry, the Commission, (a) considers it necessary to inquire into the conduct of any person; (b) is of the opinion that the reputation of any person is likely*

to be prejudicially affected by the Inquiry.” Only then the Commission is required to give to that person a reasonable opportunity of being heard in the Inquiry and to produce evidence in his defense. It is only this category of persons who have a right under Rule 6 of the Gujarat Rules to seek cross-examination of a witness.

(16) *The third category of persons who have right to seek cross examination under Rule 6 of the Gujarat Rules are those whose evidence has been recorded under Rule 4 of the Gujarat Rules, and that too with the permission of the Commission. Therefore, it is only a limited right of cross-examination which is available under provisions of the Inquiry Act and the Gujarat Rules. This is in consonance with the provisions of the Inquiry Act whereunder even the powers of the Inquiry Commission are limited because the*

proceedings before an Inquiry Commission are neither Civil Proceedings nor Criminal Proceedings in which the proceedings are adversarial in nature.

(17) Furthermore, on facts you do not fall within the category of persons whose evidence has been recorded under Rule 4 of the Gujarat Rules. You have merely tendered a statement accompanied by an Affidavit under Sub-rule (1) of Rule 3 of the Gujarat Rules.

(18) By your application dated 01/02/2021 you have asked for certified copies of all the papers relatable to the case. At the cost of repetition it requires to be stated that there is no "case" nor are there any "parties". You have neither established on facts, nor shown in law, how you are entitled to seek the record under the provisions of the Inquiry Act and/or the Gujarat Rules.

48

(19) Hence, in light of what is stated hereinbefore your application for furnishing certified copies of all the papers relatable to the case cannot be granted.

(20) Furthermore, you have made an application dated 04/02/2021 seeking a personal visit with your personal photographer of the I.C.U Ward of Shrey Hospital. You have neither established on facts, nor shown in law, how you are entitled to seek a personal visit with your personal photographer of the I.C.U Ward of Shrey Hospital. It may be noted that this Commission has already exercised powers available to the Commission under Rule 4A of the Gujarat Rules.

(21) Hence, in the light of what is stated hereinbefore your application for permitting videography of the I.C.U Ward of Shrey Hospital also cannot be granted.

49

Your Applications dated 01/02/2021 and 04/02/2021 are accordingly rejected.

By order and in the name of Hon'ble Justice D A Mehta Commission of Inquiry

Date: 05/02/2021
Gandhinagar

Sd/-
Shri Giriraj K Upadhyay,
Secretary,
Hon'ble Justice D A Mehta
Commission of Inquiry.

28. In the aforesaid facts and circumstances of the case, it is apparent that the relatives of the persons who have passed away in the unfortunate Incident of Fire are not in a position to assist the Commission in relation to any of the Terms of Reference. In so far as their averments, in their respective Affidavits, are concerned, suffice it to state that except expressing suspicion on the basis of non-availability of mobile phones and some of the mobile

phones being in a working condition after the Incident of Fire, there is no direct cogent evidence to come to a conclusion, even *prima facie*, that there was a concerted effort between different parties, named in the Affidavits, to either loot the personal belongings of the deceased patients or to cause homicidal death. In fact, no motive for such an act on part of the hospital management and staff, as well as authorities of Ahmedabad Municipal Corporation and the Fire Brigade is shown.

- 29.** The first question that a rational person would pose is: What would the hospital authorities and / or staff as well as the authorities of Ahmedabad Municipal Corporation and the Fire Brigade gain by committing such an act. It is not as if there

51

is any evidence on record to establish any pre-existing animosity between the deceased patients on the one hand, and the hospital management and others on the other hand. In fact, the hospital would lose revenue which it was getting, and further revenue which it would have received if the hospital had continued to function. Moreover, the hospital has also incurred substantial loss on account of damage and destruction of capital assets, equipments, etc. Negligence is quite distinct from culpable homicide not amounting to murder.

- 30.** After the order was made on 5th February, 2021 rejecting the applications of the five persons, on 2nd March, 2021, by mode of Whatsapp and Registered AD, the following

four persons 1. Vishnubhai Narayandas Sindhi, 2. Samir Abdulbhai Mansoori, 3. Rajesh Chandrakantbhai Shah, 4. Kalpit Yogeshbhai Shah, have sent identical communications seeking next date for hearing / taking evidence. However, ongoing through the entire communication, filed by each of them, it is apparent that their emphasis is on alleged stealing of mobile phones and valuables; delay in filing of FIR by Police; and absence of staff on duty in ICU at the time of the incident, who was trained in fire safety. In these circumstances, considering the fact that stage of evidence collection is over and the Inquiry Commission is in the process of drafting the report it is not

necessary to make any order on the Applications.

- 31.** In response to notice issued by the erstwhile Inquiry Commission headed by Justice K. A. Puj five persons had sent written communications. Out of these five, two persons, namely, Rajendrakumar Keshavlal Adesera and Ms. Khyati M Solanki have made suggestions that the staff of the Hospital needs to be trained how to react at the time of such emergencies; there should be two doors in every room for emergency exit; furthermore, all electrical equipments should be of standard make and there should be regular periodical inspection.

- 32.** The other three persons have in their communications only sought return of their personal belongings which were left behind when they had to leave the hospital premises in emergency.
- 33.** Despite fresh notices having been issued by this Commission the aforesaid five persons have either not stated anything which may assist this Commission in the Inquiry in context of the Terms of Reference, or except repeating their request for returning of personal belongings stated to be lying in the hospital.
- 34.** Dr. Manishkumar IAS, who was OSD in Ahmedabad Municipal Corporation at the relevant point of time, has tendered

55

Affidavit dated 26/11/2020. In the Affidavit details of the total number of licensed beds, functional beds, in possession of AMC and in possession of the hospital management have been given. The break up shows there are 56 functional beds out of which 28 are in possession of AMC pursuant to the Requisition Order made on 16/05/2020 by the Municipal Commissioner under the Epidemic Diseases Act, 1897. The said Order also contains the schedule of rates as prescribed. Pursuant to the requisition Order a memorandum of understanding was entered into between AMC and Shrey Hospital. Along with the Affidavit various office orders issued on 23/05/2020 and 10/06/2020, have been annexed.

35. In the Affidavit details of total number of patients who are admitted in Shrey Hospital have been given. It is further stated that out of 49 patients, 8 were in ICU ward, out of which three were of AMC quota and the remaining five of private quota. The details of 41 patients who were shifted to SVP hospital are available in tabular form.

36. The details of the eight patients who were in ICU ward and expired due to the tragic incident of Fire are as under:

| SR · N O | NAME | AGE / SEX | Address | DOA | AMC / PVT |
|-------------------|------------------------------|-----------------|---|------------|-----------------|
| 1 | NAVNEETLAL R SHAH | 80 M | SHETHFALI KHARAKUVA DHOLKA | 28/07/2020 | PVT |
| 2 | ARIF ABDULBHAI MANSURI | 42 M | 1 NUREDLAHI SOC. SONAL CINEMA VEJALPUR | 27/07/2020 | PVT |

| | | | | | |
|---|---------------------------------|---------|--|------------|-----|
| 3 | LILAWATIBEN CHANDRAKANT SHAH | 72 F | 108, DHARNIDHAR TOWER DHARNIDHAR JAIN TEMPLE VASNA | 26/07/2020 | AMC |
| 4 | NARENDRABHAI N SHAH | 61 M | SHETHFALI KHARAKUVA DHOLKA | 25/07/2020 | PVT |
| 5 | ARVINDBHAI BHAVSAR | 78 M | E-17 AKSHAT APPT MEMNAGAR | 26/07/2020 | AMC |
| 6 | JYOTIBEN VISHNUBHAI SINDHI | 55 F | RADHE BUNGLOWS 1.2, 12 RAM ROTI ROAD SINDHI ROAD KHERALU VISHNAGAR | 01/08/2020 | PVT |
| 7 | MANUBHAI ISHWARLAL RAMI | 82 M | 42 R M S SOC. MEMNAGAR | 03/08/2020 | AMC |
| 8 | AISHABEN M TIRMIZI | 51 F | D/4 ALIF APARTMENT NR. JAINMERCHANT PALDI. | 11/07/2020 | PVT |

37. In the Affidavit it is further stated " *At the same time this hospital was also checked as per 129 points Covid Checklist provided by MoH&FW , Gol by Zonal Assistant Professor on order of state government on date 27/07/2020. Among them major points were clear but 5 points were raised,*

which were supposed to comply by Shrey hospital in given timeline. Out of these what was supposed to comply within 7 days was done by hospital and rest points were supposed to comply within 15 days and 1 month, but incident happened before it."

- 38.** In the said checklist relating to **Hospital Preparedness & Isolation Facility Assessment Checklist - COVID 19** at serial number 55, the inspection team has recorded:

| | |
|--|---|
| <p>55. For a patient on Airborne Precautions, air pressure is monitored daily with visual indicators (e.g., smoke tubes, flutters stripes), regardless of the presence of different pressure sensing devices (e.g, manometers):</p> | <p style="text-align: center;">Yes ✓ No</p> |
|--|---|

In the prescribed format for **Gaps Identified and Action taken** the following assumes importance. It has been found that there is problem of cross ventilation, and putting in exhaust fans is under discussion (by way of action taken). The priority has been classified as 'Medium' and 15 (fifteen) days' time was granted for remedial action.

- 39.** The inspection was undertaken on 27/07/2020 and 15 days time was granted to take remedial action. However, before the said period of 15 days, which would have been over on 11th August 2020, the Incident of Fire took place on the night of 5-6 August 2020. This defect pointed out by the inspection team assumes

importance in context of what has been stated by the Chief Fire Officer.

- 40.** It may be contended that the defect was in isolation facility and not in ICU facility, but what is important is lack of cross ventilation.
- 41.** On 4th November 2020, vide office Order Dr. Manishkumar, IAS was relieved to enable him to resume his duties as Regional Commissioner of Municipality, and Dr. Om Prakash, IAS was assigned the duties which were handled by Dr. Manishkumar, IAS.
- 42.** On 7th January 2021, Dr. Om Prakash, IAS has tendered an Affidavit along with the following Annexures:

| Sr.No. | Detail | Page No. |
|--------|--|----------|
| 1 | Transfer Order Of Dr. ManishKumar, I.A.S | 1 |
| 2 | Index of detail in issued death certificates | 2 |
| 3 | Photo Id copies of decease's relatives | 3 to 10 |
| 4 | Submission of Sub Registrar, Navrangpura with copies of death register | 11 to 13 |
| 5 | Office Copies of death certificates of deceased persons at Shrey Hospital, Navrangpura on 06/08/2020 | 14 to 21 |

43. Shri Chaitanya J Shah, Deputy Estate Officer (West Zone), Ahmedabad Municipal Corporation has tendered Affidavit dated 09/11/2020. In the Affidavit, after narrating the history of various development permission having been granted on 8th & 29th January 1996 and 23rd

September 1996, details about charges recovered for Regularization of unauthorized construction have been stated in Paragraph No. 2 of the Affidavit. Subsequent thereto it appears that a further application was made by one Pratidhara Owners Association on 04/10/2021 for Regularization of Unauthorized Construction/ use under Gujarat Regularization of Unauthorized Development Ordinance, 2001. Thereafter another application came to be made on 18/02/2013 seeking Regularization of Unauthorized Construction/use under provisions of Gujarat Regularization of Unauthorized Development Act, 2011. In this context, it is stated in paragraph No. 5 of the Affidavit as under:

"a. As there was no sufficient parking space available, the Owner of the property has been asked to provide deficit parking facility within 500 mt. distance from its property. The owner has made sufficient effort including advertisement for parking plot in the daily Gujarati News Paper, but he could not get land/ plot, space for deficit parking area. So, he has requested to Ahmedabad Municipal Corporation to recover deficit parking fee and regularize unauthorized construction/ use under GRUDA-2011

b. As the deficit parking area was more than 200 sq.m., His case has been referred to Parking committee constituted as per the provisions of the

Gruda-2011. Vide letter no. 11th August 2016. The Parking committee has passed Resolution no. 5/ year : 2016-17 in his meeting held on 11th August 2016. As per the Parking committee resolution fees for deficit parking and regularization fee (Amount: Rs. 93,08,160/-) has been recovered for regularization of Unauthorized construction / use (for construction of cellar + ground Floor + 5 Floors + Stair Cabin + Lift Room.) at measuring area 2437.30 sq.mt.

c. *Details of Application for Regularization of Unauthorized Construction/ use under Gruda :2011 and other details is annexed herewith and marked as Annexure -IV”*

44. Ongoing through the Affidavit of the Dy. Estate officer and the documents annexed to the Affidavit it becomes apparent that originally the permission was sought for constructing 12 residential units only, comprised of hollow plinth, ground plus three floors. However, within a period of 21 days this was modified, and again followed by revised development permission for constructing cellar + hollow plinth + ground floor + three floors and the nature of use was converted from residential to commercial and residential use. There was change of use thereafter from residential use to hospital.

45. The aforesaid factual history has to be appreciated in context of the fact that

admittedly there was lack of sufficient parking facility. Such deficit parking was to the tune of 417.32 sq.mt. This figure has been arrived by considering the total built up area. The actual parking area available was only 229.86 sq.mt. This is apart from various violations in so far as the actual construction of the building is concerned.

- 46.** A serious relook at the policy of Regularization of Unauthorized Construction is required to be undertaken. More specifically in case of Nursing homes and/ or hospitals which would include maternity homes and other specialized medical and surgical care units. Otherwise, the state Government would be failing in its duty to take care of life of its citizens. Right to Life is fundamental right which

requires to be protected by the State. The State needs to understand that there cannot be a blanket policy for Regularization of Unauthorized Construction only on the basis of revenue earned, by whatever name it may be called, whether Regularization fees or Fine or Impact fees, etc. and this would apply not only to Nursing homes and Hospitals but also in case of schools, including all educational institutions like coaching classes, etc. If unauthorized construction in and on the premises of Shrey Hospital would not have been regularized, the fatalities which took place on the night of 5- 6 August, 2020 could have been avoided.

47. Shri R H Vasava, Deputy Secretary, Urban Development and Urban Housing Department, Gandhinagar has placed on record a file containing the following documents:

- The copy of WP(PIL)NO 118/2020, dated 08/08/2020
- The Oral Order of Hon. High Court of Gujarat, dated 17/08/2020
- The Affidavit-In-Reply, dated 28/09/2020 filed by Urban Development and Urban Housing Department, Govt. of Gujarat
- The Oral Order of Hon. High Court of Gujarat, dated 30/09/2020
- Action Taken Report submitted to Advocate General by Urban

Development and Urban Housing
Department on 21/10/2020

- Affidavit-In-Rejoinder, dated
12/10/2020 submitted by Petitioner
Shri Amit Panchal to Affidavit-In-Reply
filed by the State Government and
Respondent No. 4
- Affidavit-In-Reply filed by Urban
Development and Urban Housing
Department on Action Taken Report
(ATR), dated 24/10/2020
- The Oral Order of Hon. High Court,
dated 26/10/2020

He has also tendered a printed copy of Fire
Safety Audit Report of Designated Covid-
19 Hospital, dated 11/01/2021

48. On 4th January, 2021 Dr. Ravindra Patel, Deputy Police Commissioner, Zone 1, Ahmedabad has tendered an Affidavit (pages A to E). Along with the Affidavit the following eight documents were attached:

| Serial | Particular | Page No. |
|--------|---|----------|
| 1. | Zerox Copy of Message received by Navrangpura Vehicle number 2 from Police control Room Ahmedabad City. | 1 |
| 2. | Zerox copy of logbook of Navrangpura Vehicle number 2 pages | 2 to 3 |
| 3. | Copy of statement of Ms. K. M. Parmar, Police sub inspector, Navrangpura Police station | 4 to 5 |
| 4. | Zerox copy of inquest panchnama | 6 to 11 |
| 5. | Zerox copy of panchnama of the site/ place of incident | 12 to 16 |
| 6. | Zerox copy of First Information Report number 11191036200654 dated 10/08/2020 | 17 to 21 |

| | | |
|----|---|----------|
| 7. | Zerox copy of order dated 13/08/2020 granting bail to the accused | 22 to 24 |
| 8. | Zerox copy of Charge-sheet dated 09/12/2020 | 25 to 41 |

49. In the Affidavit dated 04/01/2021 Dr. Ravindra Patel has stated that on 06/08/2020 at 03:09 hours Ahmedabad City Police Control Room received a message from mobile phone no. 9824051640 regarding fire having broken out at Shrey Hospital, Navrangpura. On the basis of this message Fire Brigade was informed at 03:11 hours, and Navrangpura Mobile (Vehicle) 2 was informed at 03:12 hours by Ahmedabad City Police Control Room. The aforesaid sequence is corroborated by statement of Ms. K. M. Parmar, Police Sub-Inspector, Nvrangpura

Police Station, who states that upon receiving message from Control Room she and her team reached Shrey Hospital at 03:15 hours.

- 50.** As it was found that the aforesaid Affidavit contained only copy of Charge-sheet, without the documents annexed to the Charge-sheet, on 7th January, 2021 Dr. Ravindra Patel, Deputy Police Commissioner, Zone 1, Ahmedabad City was called upon to tender the Annexures to the Charge-sheet number 70/2020 dated 9th December, 2020. Vide letter dated 8th January, 2021 zerox copies of all the documents (serial number 1 to 219) containing 1638 pages was furnished. On going through the Index it was found that item at serial number 79 pen drive (two)

73

and item at serial number 94 CD (two) were missing.

- 51.** The charge-sheet contains post-mortem examination note. The opinion as to cause or probable cause of death as appearing in the report of Post- Mortem Examination is as under:

| SR. NO | NAME | Cause of death |
|---------------|------------------------------------|--|
| 1 | NAVNEETLAL R SHAH | Died due to shock due to burn associated with suffocation due to smoke inhalation. |
| 2 | ARIF ABDULBHAI MANSURI | Died due to asphyxia as a result of suffocation due to smoke inhalation associated with burns. |
| 3 | LILAWATIBEN CHANDRAKANT SHAH | Died due to asphyxia as a result of suffocation due to smoke inhalation associated with burns. |

| | | |
|---|----------------------------------|---|
| 4 | NARENDRABHAI N SHAH | Died due to asphyxia as a result of suffocation due to smoke inhalation. |
| 5 | ARVINDBHAI BHAVSAR | Died due to shock as a result of burns associated with suffocation due to smoke inhalation. |
| 6 | JYOTIBEN VISHNUBHAI SINDHI | Died due to shock as a result of burns associated with suffocation due to smoke inhalation. |
| 7 | MANUBHAI ISHWARLAL RAMI | Died due to shock as a result of burns associated with suffocation due to smoke inhalation. |
| 8 | AISHABEN M TIRMIZI | Died due to shock as a result of burns. |

Thus, out of 8 (eight) deaths 7 (seven) have occurred due to asphyxia, only one death has occurred as a direct consequence of burns.

52. After going through the charge-sheet as well as the Annexures thereto summons

were issued to Shri L. B. Zala (ACP 'B' Division) and Shri M. A. Patel (ACP 'A' Division) to appear before the Inquiry Commission for being examined on oath. They appeared and were examined on oath on 18/01/2021.

- 53.** It was stated by Shri Zala that he was involved with the inquiry on and from 6/08/2020 upto 10/08/2020 considering the incident as a case of Unnatural Death. After he had registered the First Information Report on 10/08/2020 Shri M. A. Patel took over the Investigation on and from 11/08/2020. This has been confirmed by Shri M. A. Patel in his deposition.

- 54.** Upon being questioned both the officers stated that in relation to the report dated

06/08/2020 made by the Officer of FSL regarding Crime Scene Visit they had not been in a position to make inquiry regarding the patient monitor, as suggested by FSL, in absence of any access to the record. The Officers further stated that upon being instructed by the Inquiry Commission they would take necessary steps in presence of the relevant persons of the management of Shrey Hospital and find out whether any record relatable to the patient monitor was available or not.

- 55.** Accordingly, on 20/01/2021 Shri M. A. Patel has communicated in writing that statement of Shri Vipulbhai Pravinbhai Raval was recorded on 19th January, 2021, and Shri Raval had stated that totally ten patient monitors of L. & T. Company had

been purchased by the Hospital during 2003-2004; that purchase bills were not available at this length of time; the hospital does not have any record regarding service / repairs before year 2018; Annual Contract for service of the patient monitors from 2018 to 2020 was given to N.M. Sales Agency, 3/ B, Geetanjali Flat, 1st floor, Opposite Medicare Building Ellisbridge, Ahmedabad. Shri Raval had produced copies of the annual contracts for 2018 to 2021 as well as report of last service visit on 10th February, 2020 and reports of earlier service visits between 2018 to 2020.

- 56.** It is further stated in communication dated 20/01/2021 that the clarification which was sought from FSL vide communication

dated 18/08/2020 was received by way of report dated 26/08/2020.

- 57.** Lastly, it was submitted that the pen Drive and CD which were referred to at serial numbers 79 and 94 of the Annexures to the Charge-sheet have been tendered in a sealed Envelope.
- 58.** In the communication dated 26/08/2020 Shri. C. C. Patel Assistant Director FSL Ahmedabad has stated in Gujarati that "it is opined that in case of fire if electrical current is passing through the patient monitor there is likelihood of short-circuit in the monitor." (Free English Translation)
- 59.** Shri C.C. Patel has tendered two Affidavits, both dated 04/01/2021. The first Affidavit contains 7(seven) pages, and attached

thereto is the document of Crime Scene visit report containing 6(Six) pages. The second Affidavit is comprised of 2(two) pages and the attached document containing 5(five) pages is copy of FSL Report No. FSL/EE/2020/P/552.

- 60.** Pursuant to Summons issued on 15/01/2021, Shri C. C. Patel appeared before This Commission on 16/01/2021. Mr C. C. Patel tendered one rough sketch of ICU Ward situated at fourth floor, Shrey Hospital, Ahmedabad. He was cross examined by This Commission and his answers which were in Gujarati were translated and recorded as under:

BEFORE THE JUSTICE D.A. MEHTA INQUIRY
COMMISSION
AT GANDHINAGAR

**IN THE MATTER OF INQUIRY IN THE INCIDENT OF
FIRE ON**

06.08.2020 AT SHREY HOSPITAL, AHMEDABAD

UNDER THE COMMISSIONS OF INQUIRY ACT, 1952

**SHRI CHETANKUMAR CHHIBABHAI PATEL is
administered oath BY JUSTICE D A MEHTA
INQUIRY COMMISSION**

**CROSS EXAMINATION OF SHRI CHETANKUMAR
CHHIBABHAI PATEL ON 16th JANUARY, 2021**

Upon being questioned I state as under:

I am here with producing rough sketch to show observations made by me in my Crime Scene Visit Report. I have identified the windows which were screwed together and it was not possible to open them by sliding them. Those windows are described in the sketch as W1 and W2 on the northern wall, and W7 and W8 on the southern wall. The remaining four

81

windows on the eastern wall, i.e. W3, W4, W5 and W6 are windows which could be slid open.

In the south-west corner various numbers have been given to show the Parcels / Exhibits which were received from the Investigating Officer for the purpose of Physical Analysis.

Parcel / Exhibit A was burnt electric component. In the Police Memo it was mentioned as burnt – semi-burnt wiring of monitor situated near bed number 9 of western wall.

The said Exhibit has also been described in paragraph number 9 as "two numbers of patient monitors were found between bed number 8 and 9 amongst them one was fully burnt and melt while only effect of burning was observed on the other".

Parcel / Exhibit F is described in the Police Memo as burnt semi-burnt motor of fan

lying on the floor near bed number 9 and the same weighs 1.52 kilograms.

In the Affidavit made in relation to the visit at the Crime Scene I have stated "one pedal stand fan was found near the south wall and between bed number 8 and 9 was found in burnt condition. The armature of the pedal fan was found lying on the floor. The power chord of this fan was found hanging on the above mentioned switch board box".

I further state that upon Physical Analysis I have found that Exhibit A shows the metal beading caused due to the short-circuit which indicates the short-circuit taking place in it.

I further state that I do not know whether the Investigating Officer has made any inquiries in relation to the suggestions made by me at the time of Crime Scene Visit on 06/08/2020.

Upon being asked to produce the photographs of Various Exhibits I produce the complete set comprising of totally 15 in number.

The aforesaid is rough English Translation of the replies tendered by me in Gujarati, and the same is correct.

No further questions are put to the deponent.

The cross-examination stands concluded.

Gandhinagar.
16/01/2021

Sd/-
Shri. C. C. PATEL

In my presence

Sd/-
Hitesh Raval
(D.G.P Gandhinagar)

- 61.** As recorded in the Cross Examination he produced complete set of various photographs comprising of totally 15 (Fifteen) in number.

62. Subsequent thereto, upon examination of Shri M. A. Patel (ACP – 'A' Division), and after considering the communication dated 18/08/2020 from the Investigating Officer as well as FSL Reply dated 26/08/2020 tendered to the Investigating Officer by Shri C.C. Patel, fresh Summons dated 22/02/2021 were issued to Shri C.C. Patel. He appeared before This Inquiry Commission on 23/02/2021 and was further Cross examined. The said Cross-Examination reads as under:

“

**BEFORE THE JUSTICE D.A.MEHTA INQUIRY
COMMISSION
AT GANDHINAGAR**

**IN THE MATTER OF INQUIRY IN THE INCIDENT OF
FIRE ON**

06.08.2020 AT SHREY HOSPITAL, AHMEDABAD

UNDER THE COMMISSIONS OF INQUIRY ACT, 1952

**SHRI CHETANKUMAR CHHIBABHAI PATEL is
administered oath BY JUSTICE D A MEHTA INQUIRY
COMMISSION**

**FURTHER CROSS EXAMINATION OF SHRI
CHETANKUMAR CHHIBABHAI PATEL ON 23rd
FEBRUARY, 2021**

Attention of the Deponent is invited to letter dated 18/08/2020 written by Shri M. A. Patel ACP (A-Division) Ahmedabad, and reply Dated 26/08/2020 tendered by the Deponent, Shri C. C. Patel.

Upon being questioned I state as under:

Upon Analysis it has been found that the motor (armature) of the pedestal fan did not have any classic symptoms of short circuit. Therefore, I don't think that could be the reason for starting of the fire. I am not in position to make any generalized statement regarding starting of fire upon an electrical equipment getting heated. I retreat my Analytical finding that there was beading found in the patient monitor indicating that short circuit took place in that instrument. No signs of any short circuit in any other instrument or at any other place, like switch board, wiring, etc. has been found.

The aforesaid is rough English Translation of the replies tendered by me in Gujarati, and the same is correct.

No further questions are put to the deponent.

The cross-examination stands concluded.

Gandhinagar.
23/02/2021

Sd/-
Deponent
Shri. C. C. PATEL

In my presence
Sd/-
Hitesh Raval
(D.G.P Gandhinagar)

- 63.** Shri Hitesh Jayantilal Trivedi, In-Charge Assistant Director, Directorate of Forensic Science, Gandhinagar has tendered Affidavit dated 07/01/2021 comprised of 2 (two) pages. Along with the Report he has attached

| Sr.No | Details of Document | Page No. |
|--------------|---|-----------------|
| 1 | <i>Copy of Case Report No. DFS-EE-2020-CF-763 dated 07/08/2020 along with its annexures given to Police Inspector, Navrangpura Police Station, Ahmedabad City</i> | 1 to 10 |
| 2 | <i>Copy of Annexures -D i.e. part of report given to the Additional Chief Secretary, Home Department on dated 09/08/2020 by DFS, Gandhinagar</i> | 11 to 46 |
| 3 | <i>Copy of CD showing the CCTV video footages of incident of fire and given with the annexure- D i.e. part of report given to the Additional Chief Secretary, Home Department on dated 09/08/2020</i> | One CD- R |

In his Affidavit Shri Trivedi has stated that he has examined one "one (01) 'HIKVISION' make DVR having one (01) 'Western Digital' made Hard Disk having size 4TB storage capacity". Upon analysis, Shri Trivedi ha stated that the video

footages were for the period 2:30AM to 4:30AM. That there was no sign of the video footages having been edited / altered / modified. There was time lag of 16 minutes qua the time set in the DVR with respect to Indian Standard Time, hence considering the time difference, the Fire break-out time was 03.03 AM IST. In paragraph Number 4 Shri Trivedi has stated *"Two CCTV camera namely camera 1 and camera 5 were found to be installed in the ICCU ward of the Hospital. Camera 1 is facing towards entry door and sitting area for doctors. Camera 5 is facing towards nursing table and also cover bed no. 10 and entry door. As seen in the CCTV video footages recorded by both the camera fire incident was started at*

03:03:25 on dt.06/08/2020. The person sitting near nursing table and wearing PPE kit came out at 03:04:22. The same person along with other three person wearing PPE kit were entering the ICU ward at 03:04:35 to 03:04:39. The person whose PPE kit caught fire was seen in the CCTV footage of Camera 1 at 03:04:52. After 03:05:04 on dt.06/08/2020 video footage is completely black & bluer and nothing is visible due to smoke. This indicates that within a period on 1 minute and 39 seconds fire spreads and entire area of ICCU was under fire and smoke.”

The aforesaid timing can be verified and stand confirmed by virtue of the photographs obtained from the video footage. There are 19 (nineteen)

photographs from the camera No.1 (page numbers 13 to 31 of Annexure 'D'), and 15 (fifteen) photographs from camera No. 5 (page numbers 13 to 31 of Annexure 'D').

- 64.** Shri Trivedi was Cross-Examined on 16/01/2021. At the time of Cross Examination, he undertook to produce complete footage of all cameras in form of a Soft copy. Accordingly on 18/01/2021 he submitted a USB Pen Drive containing CCTV video footages of 16 (Sixteen) different cameras as on 06/08/2020. The aforesaid USB pen Drive forms part of the record and is kept in a sealed envelope in the file containing the Affidavit and Deposition of Shri Trivedi.

65. Shri H. H. Khoja, Chief Electrical Inspector, Gandhinagar has tendered an Affidavit dated 02/01/2021 comprised of 11(Eleven) pages. Shri Khoja was Cross-Examined on 13/01/2021. Upon being questioned with reference to his observation in paragraph No.9 of his Affidavit, and the analysis of load as well as the table regarding service number and corresponding sanctioned load in kilo watts, as there appeared to be an omission, Shri Khoja had undertaken to tender additional Affidavit. Accordingly, a Supplementary Affidavit dated 15/01/2021 comprising of 2 (two) pages has been tendered.

66. Shri M. F. Dastoor, Chief Fire Officer, Ahmedabad Municipal Corporation and,

Director, Gujarat State Fire Prevention Services has tendered an Affidavit dated 07/01/2021 comprised of 10 (ten) pages. Attached thereto are Annexure 'A' to Annexure 'E' (totally 32 (thirty-two) pages).

67. In Paragraph Number 4.A it is stated:

- i. *"A call reporting a fire was received by the control room on 06.08.2020 at 3:10 a.m. The call was made by one Mr. Bhavinbhai Shah (Mob: 9879503434), who was admitted as a Covid-a9 patient in the hospital in the ward located on fourth floor opposite ICU.*
- ii. *The fire department of AMC immediately at 3:12 a.m. dispatched different fire trucks and vehicles along with its officers from different fire stations. Annexed hereto and marked as **ANNEXURE-D** are the details pertaining to the vehicles and officers dispatched.*

- iii. *The first vehicle i.e., Fire Tender reached the place of incident at 3:17 a.m. from Navrangpura Fire Station i.e., within 7(seven) minutes of the call received.*
- iv. *The firemen upon arrival at the place of incident, were informed that the hospital was a Covid designated hospital. Despite the fact, first responding firemen immediately put on their breathing apparatuses and pulled up the line of the mini fire tender to the fourth floor of the building to control and extinguish the fire. However, upon opening the ICU door they found that the entire place was engulfed in black smoke and there was a gush of intense heat coming from the ICU. The fire officers were unable to see anything inside the ICU and couldn't even see the fire due to the black smoke which had engulfed the entire ICU.*
- v. *To deal with the situation, firemen using their composure, went on the terrace of the*

building and one assisted fireman was lowered down by a rope to break open the window glasses. Two window glasses on the south side were broken and two window glasses on the east side corner were broken and thereafter a portable blower was installed near the lift to disperse the smoke. The firemen entered the ICU ward immediately upon dispersal of the smoke and extinguished the fire.

vi. The emergency rescue team and the police team present at the place of incident, together, entered the fourth, third, second and first floor of the building and evacuated all the patients safely and sent them to SVP hospital in the ambulances arranged”.

68. In Paragraph No. 4.B, it is stated:

“
i. Upon entering the ICU ward after the fire was extinguished, patients on bed no.

1,3,4,5,7,8,9 and 10 were found dead. (Total 8 dead).

ii. Upon noticing what was present at the place of incident, the fire could have probably occurred due to short-circuit, and the high intensity of flames could have been the result of constant flow of oxygen from the oxygen line in the ICU ward. Moreover, combustible materials like plastic curtains and gadgets, foam cushions and mattress, etc. were present in the ICU ward which could have contributed to the fast spread of the fire and the black smoke.

iii. The 2-twin glass sliding windows on North and South sides of the ICU ward were screwed in the center and could not be opened, the 4 glass windows behind the worktable on the east side could open. During the operation, all the glass panes were broken to ventilate smoke. The false ceiling

of the ward was made from non-flammable gypsum board.

- iv. The building having basement, ground and four floors was within the 15mtrs. height limit. It was mandatory to have fire extinguishers installed in the building. All the fire extinguishers installed in the building were refilled in March 2020 and next date of refilling was March 2021, which could be gathered from the labels on it and the certificates of refilling by a private company."*

69. In Paragraph No. 4.C it is stated:

- "*
- i. Looking at the CCTV footage of the said unfortunate incident at Shrey Hospital, it could be clearly made out that the ward attendants certainly lacked training and the presence of mind during the very initial stage of fire. Upon entering the dilapidated ward in the aftermath of fire, it was noted that the ward attendants had easy access to fire*

extinguishers which could have been used to douse the flames when it started to erupt. Had there been adequate training and awareness, the attendants, without using much skills could have avoided simple flames from turning into a disaster that engulfed the entire ICU ward in blaze.

- ii. *Considering the daily occurrence sheet of 6.8.2020 it cannot be denied that the emergency call was received at 3:10 a.m. which, if considered from the time of actual occurrence, is received after a significant amount of delay. Further, at the daily occurrence sheet , it is not difficult to figure out that a minute to minute account has been entered which makes it extensively clear that there has been no delay, negligence or breach of duty in any manner by any official of the fire departments in this behalf. In fact, the vigour, gallant and the presence of mind used by the firemen in order to tackle the*

entire situation is commendable as they prevented the same from spreading further in other sections of the building.

iii. It can be safely ascertained that the incident though occurred was accidental, lack of training of the hospital attendants in the fire safety contributed to a minor accident evolving into a disaster thus resulting into the unfortunate deaths of the victims."

70. Shri Dastoor was summoned and Cross Examined on 13/01/2021. His Cross Examination reads as under: "

**BEFORE THE JUSTICE D.A.MEHTA INQUIRY
COMMISSION
AT GANDHINAGAR**

**IN THE MATTER OF INQUIRY IN THE INCIDENT OF
FIRE ON**

06.08.2020 AT SHREY HOSPITAL, AHMEDABAD

UNDER THE COMMISSIONS OF INQUIRY ACT, 1952

**SHRI. M. F. DASTOOR is administered oath
BY JUSTICE D A MEHTA INQUIRY COMMISSION**

**CROSS EXAMINATION OF SHRI. M. F. DASTOOR
ON 13th JANUARY, 2021**

Upon being questioned I state that:

1. The Classification of Fires is as under:

Class A- Fires of ordinary carbonaceous material (wood, coal, cloth, cotton)

Class B- Fires involving flammable liquids (edible oils, fats, petrol, diesel, kerosene, solvents, alcohols)

Class C- Fires involving gases. (hydrogen, LPG., CNG.) (chlorine is commonly used for water purification and Ammonia is used as refrigerant, do not burn but are explosive at high temperatures) (CO₂ is inert gas used to fight fires of low temperatures but would get unstable and decompose at very high temperatures) (Nitrogen

100

is inert gas) (Oxygen does not burn but supports combustion and intensifies fires)

Class D- *Fire involving metals. (all metals burn at high temperatures and evolve higher temperatures- temperatures required for burning metals depends on the size for metal, crust or powder or shavings). Only Dry powder can be used to fight such fires or burning metals can be covered with dry sand or left in isolation to burnout. Turnery Utatic Chloride is specially used for metal fires. Water, foam or CO₂ cannot be used in this class of fire.*

Class E- *Fire caused due to electric short circuit and the electric current is on. After the electricity is cut off the class of fire depends on the material burning.*

2. Types of Handheld portable fire Extinguishers are as under:

101

The new type of extinguishers are stored pressure type and have a pressure guage on them which indicates if the pressure has gone down and it has to be re-charged. (Except CO2 extinguisher.)

(1) Carbon -di oxide- *This is an inert gas used for fighting small fires in enclosed spaces. It is heavier then air and required @16% by volume to extinguish fire, therefore not useful to fight fires in open when winds are blowing. CO2 breaks down or decomposes into Carbon and Oxygen at very high temperatures. This type of extinguishers come in sizes of 2 kgs., 4.5 kgs., handheld and 7, 9, 11, 16.5 kgs. Capacities, wheel mounted trolly units. CO2 is filled in cylinders at a pressure of 70 bar or 1030 psi. and attain a liquid state in cylinder when released it comes into gaseous state at room temperature. Expansion ratio of CO2 is 1 kg. of liquid turns into 396 liters of gas when released.*

(2) Dry Chemical powder- This is a mix of various powders, eg. Ordinary DCP (sodium bicarbonate + red turkey oil + stabilizers) ground to 8 micron particle size. There are special powders for different class of fires. Powder for ABC class of fires commonly used is MONO Ammonium Phosphate, but becomes unstable at very high temperatures. For Metal fires it is Turnari Utatic Chloride. Monnex type for hydrocarbon fires. Powder inhibits the chain reaction of flames and breaks the chain reaction.

(3) Water/ CO₂- This type has water stored at pressure and the pressurization can be by CO₂ or air or Nitrogen, the gas pressure is only used to expel water, this type of extinguishers have different design of nozzles, for simple solid jet or hollow jet or mist. This extinguisher should preferably use distilled water to prevent, short circuit or operator getting electrocuted if water comes in contact with live electricity.

(4) Foam- This type has water premixed foam concentrate and pressurized by CO₂ or air, when the premix comes out of a special type of nozzle aeration takes place and water premixed with foam concentrate gives out frothy liquid which is 8 times lighter than water and floats on the burning liquid and preventing air / oxygen coming in contact with the burning liquid. A special type of foam known as AFFF- Aqueous film forming foam, which creates a fine film above the liquid to prevent reignition even after the foam breaks up or drains. For alcohol fires AR-AFFF Alcohol Resistant - Aqueous film forming foam, type foam is used, as alcohol is miscible with water resulting into breaking down of common foam.

(5) Clean Agent- This type has a vaporizing liquid, when this liquid is expelled and comes in contact with hot surface it turns into gas and counter reacts with flame. This is an excellent extinguishing media but the area has to be

ventilated immediately or can be life threatening as it is required @ 3 to 4% by volume to extinguish fire. There are some other type of gas based extinguishing media but cannot be used as handheld extinguisher. Many old-time extinguishing media like CTC or CBM are banned as it leads to breaking down of Ozone layer of the atmosphere.

3. The following Recommendations for Hospital Safety from Fire may be considered as part of my Affidavit:

1. *Fire retardant materials to be used in ICU or ICCU for curtains, pillows, linen, mattress, ceiling, partitions, paints and wall claddings.*
2. *ICU should be at the ground floor level with more than one Exits, wide enough for the beds to be rolled out.*
3. *All air – conditioning system should be regularly serviced. The air should be supplied*

through filters, pushed in from highest part of building.

- 4. The ventilators shall be serviced at least once a month by authorized service person / agency and certified. Spare ventilators should always be available to replace the ones working.*
- 5. Electric wires shall be placed in steel conduits and switches should be serviced. Proper rated switches should be installed. Each bed of the ICU should have an MCB and ELCB of the required load rating. Electric wires used in all types of building should be at least 700 volt grading.*
- 6. Sprinklers for ICU shall be open bulb type connected to the flame or heat detectors to operate all at a time through a solenoid valve operation.*
- 7. Amber yellow emergency lights shall be placed at strategic locations for better visibility in smoke.*

8. *The hospitals should not be permitted in commercial building with mixed occupancies or residencies. If the hospitals are to be permitted in commercial or mixed occupancy building, it should be placed on the ground floor only. Hospital should be in properly designed building meant for hospitals exclusively. Also when a hospital building is designed, there shall be a fire officer of local authority involved along with architect.*
9. *The hospital building should not have glass facades as the exterior covering of areas which shall be otherwise ventilated.*
10. *Staircase of all hospital buildings shall be 2 meters in width and cross ventilated.*
11. *A hospital building should have proper required firefighting system installed and a trained fireman to be appointed to be present round the clock, to maintain the firefighting system, trail it, test it on daily basis and maintain a log.*

107

12. *Evacuation drills and drills to operate fire extinguishers or firefighting system installed in the building. All permanent staff should be trained to use fire extinguishers.*
13. *The extinguishers should be tried, tested and operated for training, before going for a refill.*
14. *Hospitals shall maintain enough staff to act for evacuation in emergency situations like fire.*
15. *Hospitals with ICU should maintain spare portable ventilators and oxygen support system for evacuation.*
16. *High pressure mist firefighting system with hose reels and fog guns should be preferred / introduced in hospitals against nominal pressure hydrant system with hose reels. Some high rise, hospitals and office buildings (Gujarat High Court has recently being protected by high pressure mist firefighting system). This system uses 10 times less water at 10 times high pressure preventing*

damage due to water and it is capable of fighting any class of fire without extra additive or protection (except metal fires).

4. Upon being shown the documents annexed with the Affidavit of Shri. Bharat Vijaydasji Mahant, I state that:

(I) *As regards the discrepancy between No Objection Certificates dated 19/03/2018 and 04/04/2019 I am not in a position to explain at this length of time. It could be a typing error in the description of the Fire Extinguishers. However, I cannot comment on the certificates given by the Private Agency. But from this discrepancy it cannot be ruled out that only cover bills, i.e. without actual any refilling taking place, only bills and certificates are issued by the Private Agency, and the labels on the equipment changed to accommodate the Hospital Management. However, in absence of any direct evidence I cannot say that emphatically.*

(II) Regarding general circular issued by Government Of India, Ministry of Housing and Urban Affairs, New Delhi on 28/05/2020, which has been relied upon by the Hospital Management, it needs to be noted that if the validity of Fire Extinguishers, i.e. Functional Life of Fire Extinguishers itself has expired, mere extension of the period of No Objection Certificate cannot help as such extension of date will not extinguish an actual Fire. Such a practice can be avoided if my suggestion at Paragraph Number 3(13) is accepted.

5. No further questions are put to the deponent.

The cross-examination stands concluded.

Gandhinagar.
13/01/2021

Sd/-
Deponent
Shri. M. F. DASTOOR

In my presence
Sd/-
Hitesh Raval
(D.G.P Gandhinagar)

- 71.** Upon being requested Shri Dastoor has tendered copy of Fire Safety Audit Report in 2 (two) files.
- 72.** The averments made by Shri Dastoor in his Affidavit dated 07/01/2021 are corroborated by statements of Shri Mahendrasinh Himmatsinh Sodha, Senior Fireman, Navrangpura Fire station recorded on 27/01/2021, and Shri Pankajbhai Narendrabhai Brambhatt, Jamadar, Navrangpura Fire station, also recorded on 27/01/2021.
- 73.** Dr. Divyang P. Oza, Registrar of Birth and Death, Ahmedabad Municipal Corporation has tendered Affidavit dated 24/02/2021 comprised of 4 (four) pages. There are

4(four) enclosures to the said Affidavit containing 16 (sixteen) pages in all.

74. On 2nd March, 2021 one more Affidavit dated 01/03/2021 containing 2(two) pages has been tendered. There are 4 (four) Annexures containing 16 (Sixteen) pages which are the repetition of the Annexures filed alongwith the Affidavit dated 24/02/2021.

75. The Gujarat Nursing Homes Registration Act, 1949 (Formerly known as The Bombay Nursing Homes registration Act, 1949) (hereinafter referred to as GNHR Act) provides for Registration and Inspection of Nursing Homes. Section 4 of the GNHR Act deals with application for registration and reads as under:

112

"4. (1) Every person intending to carry on a nursing home shall make every year an application for registration or the renewal of registration to the local supervising authority:

Provided that in the case of a nursing home which is in existence in any area at the date of the coming into force of section 3 in that area an application for registration shall be made within three months from such date.

(2) Every application for registration or the renewal of the registration shall be made on such date and in such form and shall be accompanied by such fee, as may be prescribed."

- 76.** Section 5 of the GNHR Act provides for registration empowering the local supervising authority to issue a certificate of registration in the prescribed form. Sub-section (2) of Section 5 of the GNHR Act reads as under:

"(2) A certificate of registration issued under this section shall, subject to the provision of section 7, be in force and shall be valid until the 31st day of March next following the date on which such certificate was issued."

77. Section 16 of the GNHR Act gives power to the State Government to make rules, and the said section reads as under:

"16. (1) The State Government may, by notification in the official Gazette, make rules to carry out all or any of the purpose of this Act.

(2) Without prejudice to the generality of the foregoing provisions such rules may prescribe-

(a) the form of the application to be made under section 4,

(b) the date on which an application for registration or renewal of registration to be made and the fees to be paid for such registration or renewal of registration,

(c) *the form of certificate of registration to be issued under section 6,*

(d) *for any other matter for which no provision has been made in this Act, and for which provision is, in the opinion of the State Government, necessary.*

(3) *The power to make rules under this section shall be subject to the condition of previous publication in the Official Gazette."*

78. Section 17 of the GNHR Act empowers the local supervising authority to make by-laws not inconsistent with this Act or Rules and reads as under

"17. (1) The local supervising authority may make by-laws not inconsistent with this Act or rules-

(a) *Prescribing the records to be kept of the patients received into a nursing home, and in case of the maternity home, of miscarriages, abortions or still births occurring in the*

115

nursing home and of the children born therein and of the children so born who are removed from the home otherwise than to the custody or care of any parent, guardian or relative;

(b) requiring notification to be given of any death occurring in the nursing home.

(2) Any by-law made by a local supervising authority under this Act may provide that a contravention thereof shall be punishable-

(a) with fine which may extend to fifty rupees; or

(b) with fine which may extend to fifty rupees and in the case of a continuing contravention, with an additional fine which may extend to fifteen rupees for every day during which such contravention continues after conviction for the first such contravention; or

(c) with fine which may extend to fifty rupees for every day during which the contravention continues after the receipt of a notice from the local supervising authority by the person

contravening the by-laws requiring such person to discontinue such contravention.

(3) No by-laws made by the supervising authority shall come into force until it has been confirmed by the State Government with or without modification.

(4) All by-laws made under this section shall be published in the Official Gazette."

79. A conjoint reading of aforesaid makes it clear that every person who intends to carry on a Nursing Home is required to make an application for registration, or renewal of registration, every year to the local supervising authority in the form that is prescribed and accompanied by the fees that are prescribed. Section 5 (2) of the GNHR Act stipulates that the registration certificate which is issued in the prescribed form as required by Section 5 (1) of the

GNHR Act, shall be in force and valid until the 31st day of March next following the date on which such certificate was issued. Therefore, as per the relevant provision of the GNHR Act a certificate of registration is valid only for a period of 1 year or part thereof, and an application for registration for renewal of registration has to be made every year.

- 80.** Section 16 of the GNHR Act specifies what Rules the State Government may make. It is provided that the State Government should prescribe the application form, the form of the certificate of the registration, and for the date on which the application of registration or renewal is to be made, as well as the fees to be paid for such registration or renewal of registration.

- 81.** The by-laws which the Local Supervising Authority can make cannot be inconsistent with the provisions of the GNHR Act and the Rules made there under.
- 82.** Despite this position in the GNHR Act (as is available today), and the fact that the copy of the rules is not available as stated by Dr. Divyang P. Oza in his Affidavit dated 01st March 2021, Ahmedabad Municipal Corporation has been granting registration for a period of 5 years. When called upon to explain, it was stated that registration/ renewal is being granted for a period of 5 years, on the basis of note dated 06/03/2012, which has been signed by the Municipal Commissioner on 12th March, 2012. It is true that in the note it is

recorded that the registration is granted for a period of 1 year and upto 5 years. However, the note itself specifically only provides for revision of the fees payable for registration or renewal. The resolution of the standing committee on which reliance is placed does not in any way provide for registration or renewal for a period of 5 years. In fact, as per provisions of the GNHR Act no one has any power to change the period of validity of a certificate of registration. Even by-laws cannot be inconsistent with the GNHR Act or Rules thereunder.

- 83.** In light of this position The Commissioner, Health Services, Medical Services, Gandhinagar was called upon to clarify whether any Notification has been issued

for applicability of the provisions of GNHR Act in all areas of state of Gujarat other than city of Ahmedabad; whether any rules under Section 16 of the GNHR Act have been framed; and to supply the latest amended copy of the GNHR Act along with Rules, if any.

- 84.** On behalf of The Commissioner, the Additional Director (Medical Services), Dr. Hitendra kumar K. Bhavsar tendered Affidavit Dated 03rd March, 2021 along with Annexures (39 Pages). Subsequent there to an Additional Affidavit dated 04th March, 2021 has been tendered, and in the said Additional Affidavit Paragraph 2 (two) reads as under:

"2. With respect to the contention raised in ground (3), the implementation of Gujarat Nursing Homes

& Registration Act, 1949 is not implemented in area other than the municipal corporation. The said act is implemented by the local supervising authority as per the provision of Section 2(2) & urban hospital comes under the Urban Development Department – Secretary, Govt. of Gujarat.”

- 85.** On behalf of the management of Shrey Hospital, Ahmedabad two Affidavits have been filed by each of the following persons:
1. Bharat Vijaydasji Mahant
 2. Dr. Bhargav B. Maharaja
 3. Dr. Divyesh Sanghani
 4. Dr. Kirtipal N. Visana

However, considering the fact that Shri. Bharat Vijaydasji Mahant has categorically stated:

“I hold 86% share along with my family members in Shrey Hospital Private Limited, a Registered

Company. The day to day management of the Hospital Administration is handled by me alone and the other Directors have no role to play in the daily routine administration matters."

only he was summoned for the purpose of Cross Examination.

- 86.** Along with his Affidavit he has placed on record certain photographs in support of his statement "*that at the time of renewal of Fire Safety Certificate in the year 2019 all the staff members have also been trained by the installer of Fire Safety Equipments and the photographs of the same are produced along with the present clarification.*"(part of para 6 of Affidavit dated 12/11/2020). Shri Bharat Vijaydasji Mahant has also accepted, vide his Affidavit dated 11th January, 2021, that his

earlier statement / reply dated 12/11/2020 may also be considered as part and parcel of the Affidavit dated 11th January, 2021.

- 87.** In paragraph number 5 of Affidavit dated 11th January, 2021 Shri. Bharat Vijaydasji Mahant has stated:

" it is further required to mentioned that the building wherein the hospital is situated is a low rise building where in Fire Safety NOC from the concern fire department is not required, but however for accreditation with the National Accreditation Board for Hospitals and Healthcare Providers (NABH) the Hospital was to get the NOC and lastly the same was issued by the Fire Department on 04/04/2019 and the same was valid till 30/04/2020, thereafter the hospital was not in working condition, but as stated thereafter the hospital starts functioning on 23/05/2020 and the staff member of the hospital has made the efforts to get the Fire Safety NOC renewed, but

because of the pandemic the same could not be renewed , but even otherwise due to the then prevailing pandemic situation the Government of India, Ministry of Housing and Urban Affairs vide notification number K-14011/12/2020-AMRUT-IIA dated 28/05/2020 was pleased to extend the validity of NOC's for six months from 25/03/2020, which includes the Fire Safety NOC. That for the ready reference of this Hon'ble Commission I crave liberty to produce the same by way of separate list."

- 88.** On 29th January, 2021 Shri Bharat Vijaydasji Mahant appeared in the response to summons issued by This Inquiry Commission and stated as under:

125

**"BEFORE THE JUSTICE D.A.MEHTA INQUIRY
COMMISSION
AT GANDHINAGAR**

**IN THE MATTER OF INQUIRY IN THE INCIDENT OF
FIRE ON**

06.08.2020 AT SHREY HOSPITAL, AHMEDABAD

**UNDER THE COMMISSIONS OF INQUIRY ACT, 1952
SHRI BHARAT VIJAYDASJI MAHANT DIRECTOR
(SHREY HOSPITAL PVT. LTD.) is administered oath
BY JUSTICE D A MEHTA INQUIRY COMMISSION**

**CROSS EXAMINATION OF
SHRI BHARAT VIJAYDASJI MAHANT
(SHREY HOSPITAL PVT. LTD.)
ON 29th JANUARY, 2021**

**Upon being questioned I state as
under:**

*I have appeared today in response to
the summons issued to me by the inquiry
Commission.*

126

I hold 86% share along with my family members in Shrey Hospital Private Limited, a Registered Company. The day-to-day management of the Hospital Administration is handled by me alone and the other Directors have no role to play in the daily routine administration matters.

I further state that it is correct that after the lockdown when the Hospital was reopened and started functioning as designated Covid-19 Hospital on and from 23/05/2020 some of the staff members, who were recruited subsequent thereto, had not been present when the Fire Fighting training was imparted to the staff members in 2019. Thereafter, once again training was imparted to the staff members in the months of January and February in 2020 before the Hospital closed down in last week of March 2020 due to declaration of lockdown. Even at that time staff members recruited after May 2020 had not been imparted training in Fire Fighting. Therefore,

some of the staff members, may be 50%, who were on duty on the night of 5-6/8/2020 may not have received training in Fire Fighting.

With reference to the averments in paragraph number 5.2 of my Affidavit dated 11/11/2020 I state that there is some error in the statement made therein. It should be, possibly, that as the electric power got disconnected it was not possible to use the Fire Fighting Equipment due to darkness and smoke.

As far as I recollect it was for the first time in February 2020 that Shrey Hospital applied for accreditation under NABH and though the inspection took place in February 2020 the certificate was not issued due to lockdown since March 2020.

No Fire Alarm System like smoke detectors was installed. Similarly, no automatic sprinklers were fitted in the ceiling. This was

because neither the Fire Department nor NABH asked us to have such system installed.

It is correct that though the windows on north and south walls were originally sliding windows they had been screwed together. I further state that this is the requirement as per NABH Guidelines to prevent an ICU ward from being infected with bacteria or other virus. I shall furnish the necessary printed literature in this regard on or before Monday the 01/02/2021.

It is correct that no staff member had informed either the Fire brigade or Police regarding the occurrence of Fire on the night of 5-6/08/2020.

I do not have to state anything more than I have already stated in my Affidavit.

The aforesaid is rough English Translation of the replies tendered by me in Gujarati, and the same is correct.

No further questions are put to the deponent. The cross-examination stands concluded.

Gandhinagar.
29/01/2021

Sd/-
Deponent
SHRI. B. V. MAHANT
DIRECTOR
(SHREY HOSPITAL PVT.LTD)

In my presence
Sd/-
Hitesh Raval
(D.G.P Gandhinagar)

- 89.** Subsequent thereto, he has filed a Supplemental Affidavit dated 31st January, 2021 and though in his Cross- Examination Shri Bharat Vijaydasji Mahant has referred to NABH guidelines, along with the Supplemental Affidavit he has filed a write-up titled ICU Planning and Designing in India - Guidelines 2010.

90. In paragraph number 4 of the Supplemental Affidavit Shri Bharat Vijaydasji Mahant has extracted the following portion from the guidelines and stated:

" 4) That, as per the ICU planning and designing in India- Guidelines 2010 clause 6 is regarding the Environment Planning. The important guideline reads as under: -

Environmental Requirements

(1,2,3,8,13,14,26,30,45,60,69,70,72,73,77,

79,80,88,90,91) Heating, Ventilation and

Air-conditioning (HVAC) system of ICU:

The ICU should be fully air-conditioned

which allows control of temperature,

humidity and air change. If this not be

possible then one should have windows

which can be opened ('tilt and turn' windows

are a useful design.).

So we have some windows which can be opened. Only two windows were screwed and that too for the safety purpose of the patient."

- 91.** However, in the same guidelines what is stipulated on the same page (printed page number 14) is as under:

"Negative pressure isolation rooms (*Isolation of patients infected/ suspected to be infected with the organism spread via airborne droplet nuclei <5 um in diameter*). In these rooms the windows do not open. They have greater exhaust than supply air volume. Pressure differential of 2.5 Pa. Clean to dirty airflow i.e. direction of the air flow is from the out side adjacent space (i.e. corridor, anteroom) into the room. Air from room preferably exhausted to the outside, but may be re-circulated provided is through HEPA filter NB: re-circulating air taken from areas intended to isolate a patient with TB is risk not worth taking and is not recommended

Positive pressure isolation rooms (To provide a protective environment for patients at highest risk of infection e.g. Neutopenia, post transplant) These rooms should have greater supply than exhaust air. Pressure differential of 2.5- 8 Pa, preferably 8 Pa. Positive air flow relative to the corridor (i.e. air flows from the room to the outside adjacent space). HEPA filtration is required if air is returned."

- 92.** Therefore, it is apparent that there is no guideline or norm for screwing windows together so that the same cannot be opened in case of emergency. In fact, the portion on which Shri Bharat Vijaydasji Mahant has relied specifically states that if complete air conditioning is not possible for control of temperature, humidity and air change there should be windows which can be opened.

- 93.** Even in Isolation Room what is required is that there should be a system to exhaust air from room. The exhaust of air has to be of a greater volume than the volume of the air supplied to the Isolation Room. This position is required in case of negative pressure Isolation Room, while in case of positive pressure Isolation Room the position has to be reverse, namely there should be greater supply of air than air which goes out through exhaust.
- 94.** As the facts have revealed, in fact, there was no exhaust system in place, in the ICU Ward in which 8 (eight) patients lost their lives.

95. Under the heading Disaster Preparedness (1,2,3,35,) the following three guidelines are stipulated.

- *Within ICU may be fire, accidents and Infection or Unforeseen incidents.*
- *There must be emergency exit in ICU to rescue pts in times of internal disaster. There should be provision for some contingency room within the hospital where critically sick patients may be shifted temporarily.*
- *There should be adequate fire-fighting equipment inside ICU and protection from Electrical defaults and accidents.”*

96. Unfortunately, there was violation of all the guidelines stipulated by the write-up filed by Shri Bharat Vijaydasji Mahant himself. Firstly, there was no emergency exit to rescue patients in times of internal disaster. There was no adequate

135

firefighting equipment inside ICU, and lastly there was no protection available to the patients from electrical defaults and accidents.

97. On the night of 5th / 6th August, 2020 the following persons were on duty in the ICU ward:

1. Shri Imrankhan Liyakatkhan
Clinical Assistant
2. Dr. Mitvaben Pravinbhai Malaviya
Medical Officer
3. Shri Gaurav Gnaneshwar Chauhan
Nursing Staff
4. Shri Chiragbhai Mukeshkumar Patel
Nursing staff
5. Ms. Rahelben Joelbhai Christian
Nursing staff

The statements of all the aforesaid five persons were recorded on 13/01/2020.

Shri Imrankhan, Dr. Mitvaben and Rahelben have categorically stated that they do not know how to use Fire Extinguishers and Shrey Hospital management has not given them any training.

98. Both Shri Chiragbhai Mukeshkumar Patel and Shri Gauravbhai Gnaneshwar Chauhan stated that they know how to use Fire Extinguishers. Shri Gauravbhai Gnaneshwar Chauhan also stated that because his PPE kit caught fire he could not see anything and therefore did not use any Fire Extinguisher.

99. Shri Gauravbhai Gnaneshwar Chauhan joined Shrey Hospital in the month of June, 2020 and Shri Chiragbhai Mukeshkumar

137

Patel joined Shrey Hospital in the month of July, 2020. Therefore, their further statements were recorded on 17th January, 2021 to seek clarification. Shri Gauravbhai Gnaneshwar Chauhan stated that management of Shrey Hospital has not given any training about Fire Fighting but he had received training in 2018 at Indore, Madhya Pradesh when he was serving in Shalby Hospital. He has further stated that he was trained about Fire Extinguishers but he did not know how to operate them, nor was he trained as to what steps should be taken in an emergency when an incident of fire takes place.

100. Similarly, Shri Chiragbhai Mukeshkumar Patel in his further statement dated 17/01/2021 has stated that the

138

management of Shrey Hospital had not given any training, but he had learnt about use of Fire Extinguishers when he was a student and doing nursing course.

101. One Ms. Vandana Rakeshkumar Bhatt serving as Biomedical Engineer has stated in her statement dated 13th January, 2021 that she was trained in operation of Fire Extinguishers by Shrey Hospital. However, admittedly on the night of 5th/ 6th August, 2020 she was not on duty and was not present in the Hospital.

102. Similar statements have been given by Shri Vipulbhai Pravinbhai Raval, Accountant on 13/01/2021, Shri Ranvirsinh Ishwarsinh Zala, Electrician on 17/01/2021 and Shri Divyangkumar

139

Rashmikantbhai Patel, Medical Officer on 21/01/2021. However, admittedly both Shri Vipulbhai Pravinbhai Raval and Shri Ranvirsinh Ishwarsinh Zala were not present at the time of incident of fire as they were not on duty. So far as Shri Divyangkumar Rashmikantbhai Patel is concerned, though he was on duty, his duty was on the second floor as Medical Officer.

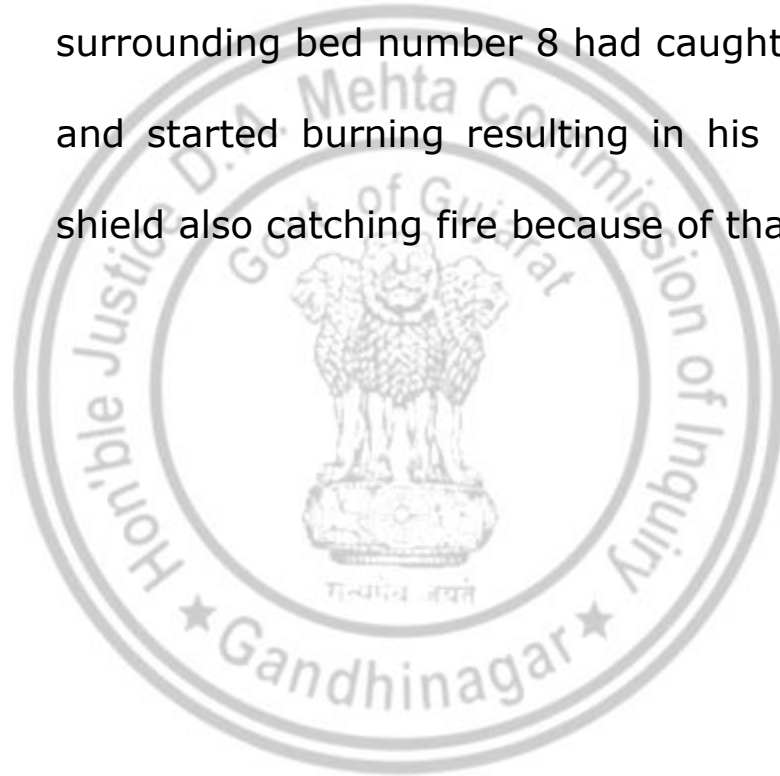
- 103.** Therefore, the evidence reveals that all the persons who were on duty in the ICU ward were not trained and were not in a position to take any steps to act in case of emergency like fire, while the others who were trained were either not on duty, or were on duty on the second floor.

Therefore, they could not be of any use in the ICU ward.

104. On 11th August, 2020 Shri Gaurav Gyaneshwar Chauhan (Nursing Staff) has given a statement before Police Authority that at the time of incident, he was the only person present in the ICU ward when the fire started. In the same statement he has stated that at around 03.00 hours, when he was sitting at the nursing table, he heard some crackling sound near bed number 9; he went to check and saw that between bed numbers 8 and 9 smoke was coming out of pedestal fan, therefore he pulled out the plug of pedestal fan from the socket. Thereafter suddenly the fan caught fire and broke into two pieces; one piece fell near bed number 9 and second piece

141

fell near curtain around bed number 8. He doused the fire which had started in one piece of the fan near bed number 9 by using cloth which was lying there; however, by that time the curtain surrounding bed number 8 had caught fire and started burning resulting in his face shield also catching fire because of that.



105. Because the findings in the FSL report tendered by Shri C. C. Patel did not match with the statement of Shri Gaurav Gyaneshwar Chauhan, the Police Authority sought clarification from FSL vide letter dated 18/08/2020. Shri C. C. Patel, Assistant Director, FSL Ahmedabad stated vide communication dated 26/08/2020 that there was likelihood of short-circuit in the monitor. Shri C. C. Patel vide his Affidavit dated 04/01/2021 has categorically stated that there was metal beading cause due to short-circuit in exhibit A which indicates short-circuit taking place in it. Exhibit A has been described as *“two numbers of patient monitors were found between bed number*

8 and 9 amongst them one was fully burnt and melt while only effect of burning was observed on the other”.

- 106.** Thus, in the opinion of Shri C. C. Patel the cause, i.e., the start of fire could be due to sparking (short-circuit) in a patient monitor.
- 107.** Considering that there were two different versions, one by Shri Gaurav Gyaneshwar Chauhan and another by the Forensic Expert, Shri Gaurav Gyaneshwar Chauhan was called upon to give his statement once again. His statement has been recorded on 13th January, 2021 by Shri Mayur Chavda, Superintendent of Police, Gandhinagar for and on behalf of This Commission.

108. In the said statement dated 13/01/2021 Shri Gaurav Gyaneshwar Chauhan has stated that there was short-circuit in the board between bed numbers 8 and 9. In light of this statement Shri C. C. Patel was once again called by This Inquiry Commission on 23rd February, 2021 for further Cross Examination.

109. In his deposition on 23rd February, 2021 Shri C.C. Patel has categorically stated *"Upon Analysis it has been found that the motor (armature) of the pedestal fan did not have any classic symptoms of short circuit. Therefore, I don't think that could be the reason for starting of the fire. I am not in position to make any generalized statement regarding starting of fire upon an electrical equipment getting heated. I*

retreat my Analytical finding that there was beading found in the patient monitor indicating that short circuit took place in that instrument. No signs of any short circuit in any other instrument or at any other place, like switch board, wiring, etc. has been found."

- 110.** On 06/08/2020, at the time of Crime Scene Visit, Shri C. C. Patel had asked the Police Authorities to make certain inquiries regarding the patient monitor. At the time of recording deposition of Shri M. A. Patel, ACP 'A' Division he has stated that in absence of any access to the record it had not been possible to make inquiry regarding the patient monitor, as suggested by FSL. On being directed by

This Commission, such inquiry was undertaken.

- 111.** Subsequent thereto, vide communication dated 20th January, 2021 Shri M.A. Patel ACP 'A' Division has stated that, statement of Shri Vipulbhai Pravinbhai Raval was recorded on 19th January, 2021 wherein it has been stated that there were ten monitors of L. & T. Company which had been purchased sometime in 2003-04. Due to passage of time no bills for the same are available with Shrey Hospital; no record regarding service / repairs before 2018 was available; service contracts for the period between 2018 to 2020 had been given to N M Sales agency, Office 3B, Geetanjali Flat, 1st Floor, Opposite Medicare Building, Ellisbridge, Ahmedabad.

112. In light of the aforesaid statement of Shri Vipulbhai Pravinbhai Raval, deposition of one Shri Manishbhai Babubhai Lavingya has been recorded on 2nd March, 2021 by Shri Mayur Chavda, Superintendent of Police, Gandhinagar, for and on behalf of This Commission. In the said deposition it is stated by him that the registration of N. M. Sales Agency is in the name of his wife Nehaben, but he undertakes servicing through the said Agency; that he would accompany the Engineer for carrying out service/ repairs. He has confirmed that 10 patient monitors had been sold by him in 2003 of L. & T. make and the warranty period was of two years; that at the relevant time he was the dealer at Ahmedabad of L. & T. Company; that the

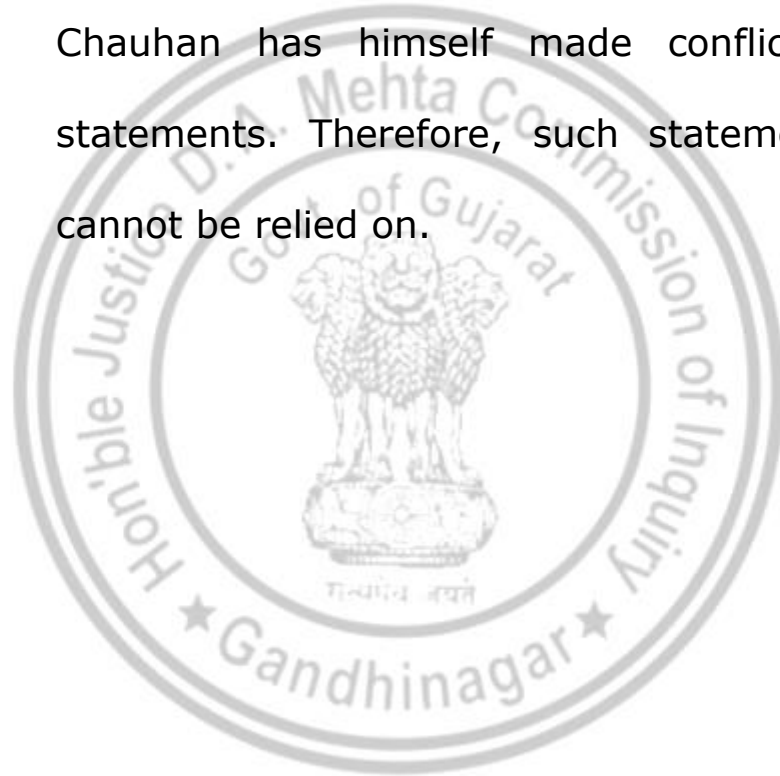
service contract was with L. & T. Company but as he was the dealer, L. & T. Company had asked him to carry out the service; in this way he used to give service and was paid for that by L. & T. Company upto 2012. Thereafter as the Medical Division of L. & T. Company had closed down the annual maintenance contracts were given to him by Shrey Hospital. He has further stated that whenever required, if any part was found to be defective, the said part was changed / replaced; and nothing happens.

113. Thus, on analysis of the aforesaid evidence, it becomes apparent that in light of the conflict between the statement of Shri Gaurav Gyaneshwar Chauhan and Shri C. C. Patel, the officer of FSL, one will have

to take a view on the basis of preponderance of probabilities as to which is the correct event which caused the fire to start. This assumes importance in light of the fact that the video recording from the CCTV cameras (camera number 1 and camera number 5) situated in the ICU ward cannot directly pinpoint either the exact location or the exact starting point from where the fire started due to the curtains blocking the view.

- 114.** Apparently, in such circumstances one will have to go by the report of FSL which has positively stated that there was metal beading found in the fully burnt monitor, coupled with the negative averment that there were no signs of beading either in the armature of the fan, or the switch board or

the wiring, or at any other place in ICU. Appropriate weightage has to be given to the opinion of the technical expert considering the report tendered by FSL. Moreover, Shri Gaurav Gyaneshwar Chauhan has himself made conflicting statements. Therefore, such statements cannot be relied on.



115. Shri Bharat Vijaydasji Mahant having categorically accepted that the staff members who were on duty on the day and at the time of incident, i.e. 6/8/2020 were not trained in Fire-Fighting, has to be held guilty of negligence. Shri Bharat Vijaydasji Mahant has also accepted that windows were screwed together leading to a situation whereby the smoke could not go outside the ICU ward resulting in asphyxiation of the patients. Coupled with the fact that there were no smoke detectors, no fire alarm system and no automatic sprinklers were installed it is only the management of Shrey Hospital, in this case, Shri Bharat Vijaydasji Mahant,

who is solely responsible for the Incident of Fire.

116. In these circumstances, the emphasis on behalf of the management of Shrey Hospital that the staff members assisted the Fire Brigade and Police Personnel in safely evacuating the patients does not absolve Shri Mahant from his negligence.

117. There is one more aspect which requires to be noted. The evidence on record clearly shows that the warranty period for patient monitor was only 2(two) years. Therefore, at the most one can consider that the effective working life of a patient monitor would be 5 (five) years. In fact, in case of the other inquiry, which has been conducted simultaneously by This

Commission, in relation to the Incident of Fire in ICU ward of Uday Shivannad Hospital, Rajkot Dr. Tejas L karmata, in his Deposition dated 5th February, 2021 has categorically stated "*The normal life of Patient monitors would be about 5 years.*"

- 118.** Therefore, the management of Shrey Hospital, Ahmedabad has to be held responsible for the incident of fire which took place on 06/08/2020, for having continued to use patient monitors which had been rendered obsolete having been purchased as far back as 2003-2004. Merely having them serviced would not absolve the management. The evidence on record shows that number of times critical components of the Patient monitors had been replaced. Thus, to keep on using a

medical equipment year after year for a period of more than 15 years, which is three times the normal effective life of such equipment, is an invitation for happening of a disaster.



119. Before making any recommendation, it is necessary to take note of the fact that there are major serious deficiencies/defects in so far as the functioning of the State Government is concerned. Only if a holistic approach is adopted will it be possible to really take care of the issues which have been thrown up during the course of the inquiries in the incidents of fire at Uday Shivanand Hospital, Rajkot and Shrey Hospital, Ahmedabad.

120. The first and the foremost is the policy of the State Government to hire personnel by the mode of outsourcing. The State Government needs to understand that in

every sphere of Governance outsourcing of employees is not only detrimental to an effective and efficient Government, but it creates a situation, a culture which yields negative result by way of outright poor performance. The reason is not far to seek. A person who has no direct interaction with the employer has no loyalty either by way of output or by way of attendance. Infact, both are interlinked. Absence of regular attendance directly impacts the output.

- 121.** Furthermore, with an outsourced employee the quality of service is directly affected. A person coming through a contractor is going to be a person who is at the lowest rung of the number of persons available in the job market in so far as the qualification is concerned. Only those persons who have

no acceptance anywhere else go to the contractor for being employed through that contractor. It is well known fact that the contractors who supply staff to various government departments have obtained the contract by making bids, and the lowest bidder is accepted. Therefore, such contractor is bound to keep the wages at the bare minimum level to ensure that the contractor himself earns by virtue of the contract having been assigned to him.

- 122.** The State Government needs to appreciate that every decision cannot be formed and arrived at by applying the touchstone of revenue. Only the cost aspect cannot be the sole consideration before arriving at a decision, formulating a policy. The Finance Department cannot be permitted to

assume a larger-than-life role in a Government. The cardinal principle that a government is nothing else but a decision-making body which acts collectively, cannot be lost sight of. The assignment and distribution of work amongst different ministers is only for the sake of administrative exigency and convenience. A decision by one or the other minister, including the Chief Minister, is ultimately a collective decision which binds all the Ministers, who constitute the Government in equal measure. Therefore, at the cost of repetition, it requires to be stated that every policy/decision cannot be taken or arrived at by only keeping in mind the revenue impact.

123. The State Government has to realise that it is required to govern the State, i.e. govern the State effectively, and not make a show of governing. The welfare of the entire population of the State has to be paramount consideration. The approach cannot be contrary by first of all considering the revenue impact, and then modulate the requirement of welfare of the people of the State.

124. A serious relook at the policy of Regularization of Unauthorized Construction is required to be undertaken. More specifically in case of Nursing homes and/ or hospitals which would include maternity homes and other specialized medical and surgical care units. Otherwise, the state Government would be failing in

its duty to take care of life of its citizens. Right to Life is fundamental right which requires to be protected by the State. The State needs to understand that there cannot be a blanket policy for Regularization of Unauthorized Construction only on the basis of revenue earned, by whatever name it may be called, whether Regularization fees or Fine or Impact fees, etc. and this would apply not only to Nursing homes and Hospitals but also in case of schools, including all educational institutions like coaching classes, etc. If unauthorized construction in and on the premises of Shrey Hospital would not have been regularized, the fatalities which took place on the night of

5- 6 August, 2020 could have been avoided.

125. Fire and Emergency Services fall within a sector which has to take priority. The personnel manning such a force like Fire and Emergency Services have to be available round the clock, i.e. 24x7 for 365 days of the year; and it is not only for a single year, but is required year after year without any break. Therefore, not only there should be adequate number of workforce, but it has to be in readiness, prepared round the clock. Hence, the minimum requirement is that such a force is a uniform force, namely a disciplined force. Such a force cannot be dependent upon or supplemented by persons who

have been outsourced through a contractor.

126. The Provisions of The Fire Prevention and Life Safety Measures Act, 2013 as well as the rules framed thereunder, and the regulations, are primarily supposed to be implemented through the mode of outsourcing. The concept of privatization has to be restricted and made applicable only in sectors, which may properly be described as commercial. One can understand that it is not the business of the government to be in business and commerce. A government is not meant for conducting the business or trading in goods.

127. However, this concept of not being in business cannot be stretched to shirk its responsibility of governing the State by ensuring the health and wellbeing of the public at large. Public health is primarily a State subject, and therefore the State has to be alive and conscious to the fact that all things connected with public health have to be dealt with conscientiously and not on the basis of revenue impact.

128. During the course of inquiry, it has come to notice that except for the areas falling under Municipal Corporations there is no statutory provision which governs the registration of nursing homes, hospitals, sanatoria, etc. Even in the city of Ahmedabad the provisions of the Gujarat Nursing Homes Registration Act, 1949 are

not applied properly/correctly. The provisions require that every nursing home has to apply for Registration every year, and the Registration granted is valid till 31st March of the succeeding year.

- 129.** Upon verification of the documents relating to the registration of Shrey Hospital, Ahmedabad it was found that Registration has been granted for a period of 5 (five) years. When the person, from Ahmedabad Municipal Corporation (AMC), who is authorized and responsible for granting Registration was called upon to explain the basis for granting Registration for a period of 5 (five) years, he relied on a Resolution, made by the Standing Committee, to contend that it was on basis of this Resolution that the Registration was

165

granted for a period of 5 (five) years. However, when it was pointed out to him that the said Resolution had merely fixed the rates to be charged for granting Registration, and that too on a yearly basis, he had no valid answer for having adopted such a practice since 2012.

- 130.** In so far as Rajkot Municipal Corporation is concerned the position is slightly different. Though, there also registration is being granted for a period of five years, the same is on the basis of a note put up before the Municipal Commissioner which has been duly signed by him. The fees for registration are being collected by framing alleged byelaws under provisions of Bombay Provincial Municipal Corporation Act, and strangely, the same have been

approved by the Urban Development Department.

- 131.** In so far as the rural area is concerned, the position is still worse. There is no Register maintained, nor any Registration granted to any clinic or nursing home. There is only one Circular issued by The Director, Health which requires maintaining the details of medical persons who are either running a clinic or a nursing home or a maternity home, etc. only for the purpose of ascertaining that there are no quacks/bogus doctors practicing medicine. Even those who are registered with The Gujarat Medical Council are not amenable to any regulatory provisions.

132. In light of this position the Commissioner, Health Services/Medical Services was called upon to furnish complete details as to the area in the State of Gujarat in which GNHR Act is applicable, and if the same is not applicable in certain areas of the State, how does the State determine the number of nursing homes, hospitals, etc. functioning in the State of Gujarat.

133. The Additional Director, Medical Services has categorically confirmed that GNHR Act applies only in the 6 (six) Municipal Corporation Areas and is implemented by the local supervising authority. Therefore, all nursing homes, hospitals, etc. fall under Urban Development Department.

134. If the Government does not have data of the total number of nursing homes, hospitals, etc. functioning in the State of Gujarat it is inconceivable that the Government would be in a position to check as to whether any Fire Prevention and Life Safety Measures are in place in such nursing homes, hospitals, etc.

135. Hence, the first step that the Government requires to take is to ensure that all clinics, nursing homes, by whatever named called, are brought under one common legislation and under one department. Whether that department should be Urban Development Department or not is a moot question. When the State already has a Commissionerate of Health why should there be such a dichotomy regarding

Health Services only on the basis of Geographical Location: Urban or Rural. More so, because even in Urban Areas application of the provisions of GNHR Act is not only not uniform, but outright contrary to the provisions of the GNHR Act. This is a serious flaw which requires immediate remedial action.

- 136.** The best way forward in such a situation is that the State Government which had already proposed a bill in 2019, namely The Gujarat Clinical Establishments (Registration and Regulation) Bill, 2019, must go ahead and ensure that the same is presented in and passed by the State Legislature. When the bill was proposed in 2019, its common knowledge, that there was resistance from the medical fraternity.

That resistance will come once again when the provisions of The Clinical Establishments (Registration and Regulation) Act, 2010 are sought to be implemented by the bill proposed by the State Government. However, in case the State Government does not wish to move a separate bill, the State Legislature must ensure that the Central Act of 2010 is adopted and made applicable, as the other States have already done. After adopting the Central Act of 2010, the State Government may frame appropriate Rules as provided in the said legislation.

- 137.** The objection by the medical fraternity has to be balanced against the interest of the people at large of the State of Gujarat. The State Government has to pose a question

to itself: Whether the interest of Medical Practitioners, who might be totaling about one lakh or may be slightly more, is to be given precedence over the interest of the total population of the State running into crores. The answer is very simple. Even otherwise, when there is conflict between private and public interest, precedence has to be given to public interest. For the sake of private interest of a limited number of persons, howsoever highly qualified they may be, the larger public interest, the larger public good cannot be ignored or given a go bye.

138. Therefore, before making any specific recommendation as regards Prevention of Fires the following recommendations are made:

139. In the first instance, the State Government has to have a negative policy regarding recruitment. In other words the State Government shall have to resolve and ensure that there shall be no outsourcing, by whatever name called, insofar as Fire and Emergency Services are concerned for the entire State of Gujarat.

140. During the course of inquiry and interaction with various officers of the Fire and Emergency Services of Ahmedabad and Rajkot, as well as the Acting Director, Fire and Emergency Services of Gujarat State, a common refrain was noticed, namely, there was shortage of trained personnel who could be recruited. Unfortunately, no one has gone to the root

of the matter. There is shortage of trained persons due to the faulty and defective policy of recruitment adopted by the State Government. Since at least 15 years or more, the State Government, in its misguided zeal to save revenue, has virtually put a full stop to recruit people despite the posts falling vacant due to superannuation or other reasons. As a result the vacancies have kept on increasing year after year. Once, such a policy becomes universally known, no person is going to spend money for obtaining degree/diploma/training because, even after having successfully obtained degree/diploma/training in Fire and Emergency Services, he is not going to get a job. The qualification and the training

are such that he cannot get a job in any other sector. Therefore, the direct consequence of the faulty/defective policy is that today no qualified/trained personnel are available, even if the Government wants to fill up vacant posts. And this situation has a direct correlation with the shortage of qualified/trained persons who could be promoted to different hierarchal positions of officers, as the officers who had been recruited say 20 or 25 years back have started superannuating. Atleast, the post of Director, Fire and Emergency Services, Gujarat State has been manned recently by two officers who have been stopgap arrangement by being appointed as Acting Director, while actually holding

the post of Chief Fire Officer, Ahmedabad and Jamnagar respectively.

141. At present the situation in the State Fire and Emergency Services is that if officers from lower rank are promoted, vacancies which arise in the lower rank remain unfilled. Moreover, even the officers who are promoted, say for example as, Chief Fire Officers have to be given ad-hoc charge by designating them as Acting Chief Fire Officers because they have not completed the requisite period of service for filling up the post. Thus, it has become imperative that the State Government understands the consequences of its faulty/defective policy and immediately takes remedial action by lifting the ban on recruitment in entirety, atleast so far as a

disciplined force like Fire Brigade is concerned. Otherwise, the long-term results would be disastrous.

- 142.** In line with the aforesaid recommendation the provisions of Fire Prevention and Life Safety Act, 2013 and the Rules and Regulations thereunder have to be suitably amended to ensure that fully qualified and trained personnel are available to act as:
- (1) Supplemental force which works under the local Fire Brigade; and
 - (2) A feeder force qua the vacancies which arise in the local Fire Brigade.
- The provisions of the aforesaid Act read with the Rules and the Regulations as they stand today merely provide for freelancers, which is not conducive to a good firefighting unit, nor is it conducive to ensuring that all the

buildings in the State of Gujarat have proper system in place for prevention of fire and fighting fire, in case of need.

- 143.** The policy of recruitment also requires to be reversed for the simple reason that with growing population and rapid urbanization, the area which an existing Fire Brigade is required to handle keeps on expanding on all sides without corresponding growth in the strength of the persons manning the Fire Brigade. As the area of a city/town increases, the number of fire stations are also required to be increased. When new fire stations are established not only more man power is needed but there has to be a directly corresponding increase in the number of vehicles, firefighting equipment, etc. Hence this is one more reason to give

up the faulty/defective policy of a blanket ban on recruitment.

- 144.** There is likelihood that a contention may be raised that a fire brigade is the responsibility of the local body under whose jurisdiction the fire brigade functions. Nothing can be further from the truth. It is well known and established that the Fire and Emergency Services is a State wide force with Head Quarters at Gandhinagar. Therefore, the said argument is without any basis and should not hold back the State Government from initiating immediate remedial action by revamping and upgrading the entire fire brigade of the State. Only if this is undertaken, would any other measures taken to prevent and fight fires and deal

with emergencies yield any positive result. Otherwise, regardless of the number of suggestions/recommendations, there will be no improvement in the existing state of affairs. To the contrary, things will keep on deteriorating.

- 145.** There is also an economic aspect which the State needs to bear in mind. After every recent incident of fire in nursing homes, where human lives have been lost, the State Government has declared ex-gratia compensation which has been paid out of the funds of the exchequer. Why should a common tax payer of the State bear the burden of misdeed or laxity of the management of the nursing home? The tax paid in the coffers of the State Exchequer is meant to be used for well-being and

improvement of the life of every citizen of the State. This is a Constitutional obligation so far as the State is concerned. The State must compel the management of the nursing home to bear such burden, otherwise all the people who constitute the management of different nursing homes would carry an impression that even if they do not comply with the requisite provisions of the law, as may be applicable, in case of an unfortunate event taking place the State will compensate the victims who suffer in such unfortunate event.

146. As already noticed the policy of regularizing illegal construction by payment of a sum, by whatever name called, has to be suitably modified to ensure that atleast premises which are to

be used as nursing homes, etc., or the premises which are to be used for the purpose of Education should not be premises which are illegally constructed. In other words, no nursing home, etc. or an Educational Institution should be permitted to operate in illegally constructed premises which are subsequently regularized on payment of a sum, by whatever name called.

- 147.** Before one determines applicability of the kind of Fire Extinguishers that should be made compulsory, when Fire Extinguishers are to be installed, the standards prescribed by the Bureau of Indian Standards should be considered.

148. The Bureau of Indian Standards has published IS 2190 in November, 2010. The title is:

Indian Standards
SELECTION, INSTALLATION AND MAINTENANCE
OF FIRST-AID FIRE EXTINGUISHERS-
CODE OF PRACTICE
(Fourth Revision)

149. In the FOREWORD it is stated as:

"Portable fire extinguishers are not expected to deal with large fires since they are essentially first-aid fighting equipment. Nevertheless, they are very valuable in the early stages of a fire when used promptly and effectively. Provision of unsuitable types, incorrect operation, or improper maintenance of the extinguishers have, at times, led to failure in tackling the fire effectively in the early stages, thus involving greater loss of life and property. This standard has, therefore been formulated for giving guidance regarding proper selection, installation and maintenance of portable

first-aid fire extinguishers so that such fire extinguishers will function at all times as intended throughout their useful life. This standard does not cover the requirements applicable to fixed installation systems for extinguishing fire even though portions of such systems may be portable.”

150. Under the heading 'GENERAL', paragraph numbers 4.1, 4.2 and 4.3 state as under:

“(4.1) None of the extinguisher covered in this standard is expected to deal with a large fire as all these are essentially first-aid fire-fighting appliances. Nevertheless, these are very valuable, if used promptly and efficiently in the early stages of a fire. In addition to the value of their portability and mobility the most important feature of these extinguishers is their immediate availability so that each extinguisher can be used by one/two persons. The usefulness of these extinguishers is limited, as it is entirely

dependent upon the presence of persons having knowledge to operate them. Furthermore, their capacity is also limited and their optional value largely depends upon the initial charge being sufficient to overcome and extinguish the fire. The capacity of such extinguishers should commensurate with the risk these are intended to cover.

4.2 *Since a variety of shapes or methods of operation of fire extinguishers have at times led to confusion and failure to quench the fire, it is recommended that extinguishers installed in any one building or single occupancy shall be similar in shape and appearance and should have the same methods of operation, as far as possible. All extinguishers shall be equipped by the same control devices even if their design is for different types of fire. This will also simplify the training of the large number of employees*

in the effective and efficient use of extinguishers.

4.3 Where employees have not been trained, operations of extinguishers may be seriously delayed, the extinguishing material may be wasted, and more extinguishers may have to be used, or the fire may not be extinguished."

151. In relation to "SELECTION OF LOCATION', in paragraph 6.9 the requirement which is specified is:

"6.9 A framed plan showing the location of fire extinguishers, means of access and other useful information should be displayed at suitable places on each floor, but should be available near to the entrance to the premises preferably at the security gate or the reception office."

152. Paragraph 9 relates to "SELECTION OF FIRE EXTINGUISHERS".

It is stated that various types of fire extinguishers have been specified, but all are not equally effective on all types of fires. Hence, for selecting the correct category of fire extinguisher the nature of a building and the use or the process carried out in such building will have to be considered. Therefore, basic types of fires have been grouped into following four broad classes:

- "a) Class A fires- Fires involving solid combustible materials of organic nature such as wood, paper, rubber, Plastics, etc, where the cooling effect of water is essential for extinction of fires.*
- b) Class B fires – Fires involving flammable liquids or liquefiable solids or the like where a blanketing effect is essential.*
- c) Class C fires – Fires involving flammable gases under pressure including liquefied*

gases, where it is necessary to inhibit the burning gas at fast rate with an inert gas, powder or vaporizing liquid for extinguishment.

d) Class D fires - Fires involving Combustible metals, such as magnesium, aluminum, zinc, sodium, potassium, etc, when the burning metals are reactive to water and water containing agents and in certain cases carbon dioxide, halogenated hydrocarbons and ordinary dry powders. These fires require special media and techniques to extinguish.

153. In paragraph 10 different types of fire extinguishers are mentioned against each class of fire, which are generally most suited. The same are only for guidance and do not cover special cases.

“a) Class A fires – water, foam, ABC dry power and halocarbons.

- b) *Class B fires – Foam, dry, powder, clean agent and carbon dioxide extinguishers.*
- c) *Class C fires – Dry powder, clean agent and carbon dioxide extinguishers.*
- d) *Class D fires - Extinguishers with special dry powder for metal fires.”*

154. Under ANNEXURE B 'RECOMMENDATIONS FOR INSTALLATION OF FIRE EXTINGUISHERS' are stipulated. The table in the said ANNEXURE lays down Class of Occupancy, Type of Occupancy, Nature of Occupancy, Class of Fire and Typical Examples. Under this it is stated in relation to Group C, i.e. Class of Occupancy:

| <i>Class of Occupancy</i> | <i>Type of Occupancy</i> | <i>Nature of Occupancy</i> | <i>Class of Fire</i> | <i>Typical Examples</i> |
|----------------------------------|---------------------------------|-----------------------------------|-----------------------------|--|
| <i>Group C</i> | <i>Institutional Buildings</i> | <i>MH</i> | <i>Class A</i> | <i>Hospitals, sanatoria, homes for aged, orphanage</i> |

However, though the Nature of Occupancy is shown as falling under category 'MEDIUM HAZARD', in a Hospital having intensive care unit wherein supply of oxygen is continuous or constant, either by way of a pipe line or by way of cylinders, the Nature of Occupancy should be upgraded to 'HIGH HAZARD' from 'MEDIUM HAZARD', and the Class of Fire should be upgraded to Class C from Class A.

155. In fact, both the incidents of Fire at Ahmedabad and Rajkot have shown that, apart from the fact that the staff on duty was not trained to fight fire and deal with emergency, it was the supply of oxygen which was instrumental in the fire going out of control. Hence, the aforesaid recommendation to upgrade the Nature of Occupancy and the Class of Fire.

156. Paragraph 11 deals with 'INSPECTION AND MAINTENANCE OF FIRE EXTINGUISHERS'. Thereunder, vide paragraph number 11.10 General Safety Precautions for Maintenance have been prescribed. Therein paragraph 11.12 deals with the requirement of monthly inspection in the following words:

"11.12 The maintenance, inspection and testing of all extinguisher in respect of mechanical parts, extinguishing media and expelling means should be carried out by properly trained and competent personnel at frequent intervals, but at least once a month, to ensure that these are in their proper condition and have not been accidentally discharged or lost pressure or suffered damage. Regular inspection of all extinguishers and their components like spare cartridges and refills kept in the stores should also be done to ensure that these are in proper condition and fit for use." (emphasis supplied)

- 157.** The procedure for quarterly maintenance is laid down in paragraph 11.13. Paragraph 11.14 prescribes that over and above the quarterly inspection, all the extinguishers shall be subjected to a more thorough inspection at least once in a year. However, it is further stated that

advantage should be taken of this annual inspection to train personnel in the operation of extinguishers.

158. To ensure that fire extinguishers are effective, proper maintenance is essential. Paragraph 11.12 stipulates procedure for *monthly* maintenance.

The procedure for *quarterly* maintenance is laid down in paragraph 11.13. Over and above the monthly and the quarterly maintenance all the fire extinguishers have to be more thoroughly inspected at least once every year.

159. Annexure 'D' pertains to refilling schedule for fire extinguishers and schedule for operational test on fire extinguishers. Annexure 'E' lays down schedule for

hydraulic pressure testing of fire extinguishers. However, the periods mentioned in the said schedules cannot be used to defer or delay the maintenance and inspection stipulated by Paragraphs No. 11.12, 11.13 and 11.14 which provide for monthly, quarterly, and annual inspection respectively. For the purpose of prevention of fires the maintenance and inspection have to be carried out at the specified interval. It is necessary that this requirement is incorporated immediately so as to become applicable to all buildings, with special reference to premises which run hospitals, nursing homes etc. Merely because the life of fire extinguishers as per the table at Annexure 'F' is for a longer period, that cannot be a ground for not

carrying out the maintenance and inspection at the specified intervals. Moreover, there has to be a system, a procedure which ensures that the maintenance and inspections required to be carried out at monthly, quarterly and annual intervals are actually carried out.

- 160.** During the course of the Inquiry undertaken by This Commission it has been noticed that as per the present prevalent procedure the fire brigade of the concerned Municipal Corporation issues a NOC on the basis of either what is stated by the management, or on the basis of an affidavit filed by the dealer/agency who supplies the fire extinguishers. Same is the position in relation to the capacity of underground and overhead water tanks.

195

Uday Shivanand Hospital, Rajkot is a perfect example as regards such discrepancy. The fire brigade is handicapped due to shortage of staff and is not in a position to even make a random surprise check.

161. This position also prevails in so far as the training to fight fires, which is to be given to the staff of the hospitals, is concerned. On paper the dealer/agency states that training is given to the staff members, and the management, at the highest, gives in writing names of a few staff members who are stated to have been allegedly trained.

162. By way of illustration, in the case of Uday Shivanand Hospital, Rajkot, the management gave in writing names of four

persons alleged to have been trained in firefighting. The fire brigade was satisfied by obtaining such a written communication from the management; and the fire brigade placed reliance on the said communication to defend itself for stating that the staff had been trained in firefighting.

- 163.** Similarly, in so far as Shrey Hospital, Ahmedabad is concerned, reliance has been placed both by the hospital management and the authorities, on certain photographs produced by the management and placed on record. It became apparent when the persons, who were on duty in the ICU ward on the day and time of the Incident of Fire, were examined, that except for one member of

the nursing staff all others had joined the hospital recently and were not a part of the group who were alleged to have been trained.

- 164.** Furthermore, the kind of training which is said to have been given to the staff members of the hospital itself indicates that none of the persons involved, are serious and sincere about the actual training. The management thinks it is not profitable; the dealer/agency, who is supposed to impart training has no interest and merely goes through the motions so that his bill for supply of the equipment is cleared and paid by the management. Moreover, by way of training the dealer/agency, through its representative merely shows and speaks how to operate a fire

extinguisher without any of the staff members even actually handling the equipment, much less operating the same. This was categorically stated by a staff member of Uday Shivanand Hospital, Rajkot during the course of his deposition.

- 165.** There is one more aspect of the matter. The human psyche is that, a person always thinks that he/she will never have to face an emergency so as to either fight fires or save life in case of a sudden fire. Therefore also, when training is imparted there is no interest or real intent to learn.

- 166.** Another aspect is, that even if actual training is imparted, handling and operation of the fire-fighting equipment is not something which a person would be

able to undertake in a case of actual emergency. At the level of mental preparedness, there has to be a willingness to fight against various odds occurring during the actual incident. In other words, a person has to be mentally strong enough to stand up and face the problem, even if it means that an injury may occur to such a person. On the other hand, there has to be physical capability. Removing a fire extinguisher from its wall mounting, carrying to the site of the fire and actually operating the equipment to douse the fire requires a certain amount of minimum physical strength.

167. All this assumes importance in light of the fact that for building the mental and physical capacity there has to be repeated

stints of actual fire drill. A person must be called upon to handle, carry and operate the equipment from the place where the equipment is located to the site of fire. Simultaneously, presence of mind is required to ensure that the damage to property is not given precedence over saving of life.

168. In light of what is stated hereinbefore, mere installation of Fire-fighting equipment or having a valid NOC is neither going to prevent fires, nor is such NOC/installation going to fight fires, nor is it going to save life and/ or property. The government would be well advised to bear the aforesaid factors in mind when a policy is framed for the purpose of prevention of the fire and saving of life. Any policy which

201

overlooks or ignores these factors would not be effective, even though on paper the policy would appear to be very attractive. While framing any policy in relation to prevention of fire, fighting of fire and saving of life is concerned, the policy has to be divided into three categories. In the first category the consideration has to be short term resolution of problem, i.e. deal with immediate issues in the present. The second category has to relate to a medium term. In other words, lay down solutions which can be implemented, are possible to implement, over a medium range of period. The last category would be the steps on a long-term basis. This would include planning for future in relation to new buildings that may be coming up or

are likely to come up. However, by only looking at a long-term solution the government will not be able to wish away the issues/ problems which the government is facing today.

169. Installation of Fire Extinguishers is only one part of the solution. Unfortunately, today many small and medium size hospitals are functioning in Commercial Buildings that are not meant to be used by the Health Care Centers. For the purpose of long-term safety there have to be structural changes, revamping of electrical load, including wiring and then the installation of The Fire Safety Equipment.

170. As already noticed, not only are nursing homes/hospitals functioning in Commercial

203

Buildings, but even in cases, where there is no mixed occupancy, such nursing homes, etc. are functioning in, admittedly illegal buildings just on payment of regularization fees. The State has to ensure that all such nursing homes/hospitals, etc. located or functioning in buildings which are not meant to be used for Health Care purposes, should be nudged to shift to legally constructed premises, even in existing buildings were the specifications by and large, confirm to, or/are as near to the parameters stipulated by the National Building Code. It is understandable that the specifications prescribed by NBC cannot be made applicable to existing buildings immediately and in entirety.

However, the State must give priority to nursing homes and hospitals in the first instance, and thereafter second in order of priority should be Schools and all other Educational Institutions. For the changes to take place one has to make a beginning, bearing in mind that COVID-19 has not disappeared. May be at present the Indian Scenario cannot be described as a pandemic situation, but at the same time one cannot take things easy and revert back to old ways of letting things be as they are.

- 171.** In private clinics/nursing homes where there are structural problems the State can formulate a policy of starting with clinics where there are ICU's having capacities of 5 (five) or less than 5 (five) beds.

205

Subsequently the nursing homes/hospitals can be identified where the ICU's have beds going upwards in figures.

- 172.** There have to be 2 (two) staircases for Emergency Exit but at present many hospitals have only 1 (one) staircase and that too with a width less than the required width of 2 (two) meters. Identifying such buildings/nursing homes situated in mixed occupancy commercial buildings will be the first requirement before any provision for a second staircase having enough width can be made. Shrey Hospital, Ahmedabad is a classic case where this is not possible. Firstly, the building is an illegal premise, given permission to run a nursing home/hospital only on payment of regularization/impact fees. Hence, it does

206

not have enough space/area where a second staircase can be constructed.

- 173.** Even in cases where there are 2 (two) Elevators, in absence of a separate, standby power source the second elevator is of no use because in case of a fire emergency the first thing that happens is electric supply gets cut off, or has to be shut down so as to prevent the fire from spreading through the electrical cables.
- 174.** Another problem area is obstructions created in the premises itself by temporary structures to bifurcate COVID-19 designated areas and Non-COVID areas; second problem is obstructions at the ground level, more particularly in margin area. If any example is required, Shrey

Hospital is such an example. The rear margin and margin on one side are covered and obstructed due to the said area having been allotted to a catering contractor. On the rear side there is a kitchen which contains LPG Gas Cylinders, Microwave Ovens and a sunken area for cleaning utensils, which is just next to the underground water tank. The side margin area is filled up with tables and chairs where beverages and eatables are served. This assumes importance in light of the fact that if Fire Brigade would have had access to the side margin area possibly, they might have had precious seconds in which they could have broken into ICU from outside. As the facts have revealed due to dense black smoke Fire Brigade personnel

could not enter the ICU because there were 2 (two) sets of doors between which there was a vacant passage area, and there were no signages nor any diagram indicating the layout. The Fire Brigade personnel were therefore forced to go to the top, climb down from the terrace with the help of a rope, break open glass windows resulting in the unfortunate delay causing death of 7 (seven) out of 8 (eight) patients due to asphyxiation.

- 175.** The next thing which requires to be addressed is the use of false ceilings which leaves less space for smoke to travel upwards. Such trapped smoke at eye level not only hampers firefighting operations but causes asphyxia. The false ceiling also leaves less space for heat to spread

resulting in burn injuries in lungs even without there being any direct contact with the fire itself. This has happened both in case of patients in ICU of Shrey Hospital, Ahmedabad and ICU of Uday Shivanand Hospital, Rajkot.

- 176.** Considering that the intensity of COVID-19 has substantially reduced and number of hospitals which were designated as COVID hospitals have been derequisitioned (as at the time of drafting this report), the Government would be well advised to consult Senior Fire Brigade personnel and seek their opinion as to which of hospitals can in future be designated/requisitioned in case of an epidemic. Furthermore, all the officers who are empowered, in future, to take appropriate measures under the

210

Epidemic Diseases Act should be required to consult the senior most fire brigade officer in their jurisdiction before making an order of requisition.

- 177.** Amongst the immediate measures that can be initiated are removal of obstructions in the staircases, removal of glass facades and grills which are likely to prove hindrance in firefighting.
- 178.** While taking care of these structural issues referred above, one major issue is installation of automatic fire alarms linked with smoke detectors and automatic sprinkler system. This is an appropriate time when atleast these changes can be carried out when there is no load on the ICUs.

179. The facts and evidence in both the incidents of fire at Ahmedabad and Rajkot have shown that even when fire extinguishers have been installed, firstly the location is not appropriate. Secondly, and this is more important, the incapability of the health care staff to operate the fire extinguishers while wearing PPE Kits, and even without such kits. There has to be a long-term policy for compulsory fire training to the health care staff. This aspect has been dealt with in detail while referring to the selection, installation and maintenance of fire extinguishers hereinbefore.

180. A practical way out for dealing with this is, there should be qualified fire fighters

212

appointed at hospitals to lead firefighting before the fire brigade personnel arrive at the scene of fire. Such qualified firefighters can be hired as either security staff, or staff who are required to undertake cleaning and maintenance operations. The caveat is, there should be repeated training by actual stints of fire drill. Just as mere installation of fire extinguishers is not going to prevent or fight fires, similarly mere hiring of qualified staff cannot be sufficient if they do not undertake actual physical firefighting drill may be a mock drill, but the same has to be a regular feature at certain intervals, and also on an emergency surprise basis.

181. So far as electrical connections are concerned first and foremost requirement

213

is to ensure that not only appropriate load is sanctioned and obtained, but commensurate wiring involving cables and electrical sockets and switches, etc. which emit low smoke have to be used.

- 182.** One more issue on which attention is required to be focused is loose connection, more particularly in case of plug and sockets, which is either as a result of different sizes, or the plug and the sockets are mismatched. An example is use of 15 Amperes equipment in 5 Ampere sockets. Similarly use of multiple plugs in a socket having multiple outlets should be prohibited. Even use of extension cords, which basically is only a temporary arrangement, cannot be permitted on a long-term basis. It has been found that

214

extension cords are employed to plug-in multiple electrical equipments.

183. All MCBs (Miniature Circuit Breaker) have to be replaced by ELCBs (Earth Leakage Circuit Breaker). Furthermore, use of 100 mA switches instead of 30 mA switches prevents tripping in case of small spikes in power supply. This is ill-advised, especially for hospitals and more particularly, ICUs having oxygen rich environment.

184. Lastly, the most important. There is no policy to change or replace ventilators and other critical medical equipments which use electrical power. They are being used 24x7 on patient after patient without any break resulting in overheating of the internal wiring, or their circuits, or other

components like sensors. In case of Shrey Hospital, Ahmedabad sparking (short-circuit) took place in a patient monitor and in case of Uday Shivanand Hospital, Rajkot sparking (short-circuit) took place in a thermo sensor located in the oxygen/air pipe/tube proceeding (which supplies) from ventilator to the patient.

- 185.** There has to be a system in place to ensure that the record of medical equipments which are in use in ICUs is available, especially before a nursing home/hospital is requisitioned by the Government in case of emergency. Availability of such record would be helpful to determine whether the said medical equipment is within the reasonably valid period of effective functional life of that equipment.

216

Maintenance of such record can be effected by ensuring that the nursing home/hospital places the details at the time of obtaining registration or yearly renewal of registration. Such record can be simultaneously linked with the annual application for Fire NOC or Fire Safety Certificate. This will ensure that there is cross verification of the details which come on record relating to a particular nursing home/hospital. A requisite software for this purpose should be custom made and compulsorily installed across the State linking the Fire & Emergency Services and Health Care Services. Just as a policy is recently being put in place to phase out old vehicles to control pollution, a similar policy should be framed and put in place to

217

ensure that medical equipments like patient monitors, ventilators, etc. are phased out or replaced at the end of 5 (five) years. This will reduce the chances of any short-circuit taking place.

186. There is one more aspect of the matter which requires serious consideration. In case of Shrey Hospital, Ahmedabad NOC was issued on 04.04.2019 and the same was valid upto 30.04.2020. The hospital had already been closed down, and started functioning w.e.f. 23/24.05.2020 after being requisitioned for treating COVID-19 patients. Thus, on the day the hospital started functioning, there was no valid NOC regarding fire, despite which an Order of requisition was made without due verification. In these circumstances, the

reliance by the management of Shrey Hospital, Ahmedabad on the General Circular issued by Government of India, Ministry of Housing and Urban Affairs vide notification no. K-14011/12/2020-AMRUT-IIA dated 28.05.2020, which extended the validity of various NOCs for 6 (six) months from 25.03.2020, is misplaced. In the first instance, the said circular was primarily issued in context of Housing Projects; Secondly, if the Fire NOC had expired and/or the validity of the fire equipment, i.e. functional life of fire extinguishers itself has expired, mere extension of the period of NOC cannot help as mere extension of date will not extinguish an actual fire. Therefore, in future while requisitioning a premise during a pandemic, a guideline

219

should be available to determine whether a given nursing home/hospital should be requisitioned or not. The building should not be illegal; should have valid registration under The Clinical Establishments Act; should have valid fire safety certificate based on firefighting equipment which is having effective functional life; and, the fire safety certificate should also ensure that the critical medical equipments are within the effective functional life period of such equipments. The nursing home/hospital should also have trained persons who can act in time of emergency, and such persons should be available 24x7 by being assigned duties in reasonable shifts.

SUMMARY

- **The policy to hire by mode of outsourcing needs to be given up.**
- **Every decision cannot be formed and arrived at by applying touchstone of cost/revenue.**
- **The welfare of the entire population of the State has to be paramount consideration, which cannot be modulated on consideration of revenue impact.**
- **Fire and Emergency Services fall within a priority sector which requires adequate number of workforces,**

which has to be in readiness round the clock.

- **Such a force has to be a disciplined force which cannot be dependent upon or supplemented by persons who are outsourced.**
- **Accordingly, the provisions of The Fire Prevention & Life Safety Measures Act, 2013, the Rules framed thereunder, and the Regulations have to be appropriately amended.**
- **The Gujarat Nursing Homes Registration Act, 1949 is not being applied correctly and uniformly.**
- **All clinics, nursing homes, hospitals, etc. by whatever name called should**

be brought under one common legislation and under one department.

- **The Clinical Establishments (Registration & Regulation) Act, 2010 should be adopted and made applicable to the State of Gujarat.**
- **The State Government may frame appropriate Rules as provided in The Clinical Establishments (Registration & Regulation) Act, 2010.**
- **The private interest of the medical fraternity has to be balanced against the public interest, namely the people of the State of Gujarat.**
- **There is shortage of trained personnel who can be recruited in the Fire &**

Emergency Services due to faulty and defective policy of recruitment, which requires to be reversed.

- **There is direct correlation with the shortage of qualified/trained personnel with the faulty/defective policy of recruitment.**
- **Remedial action by lifting the ban on recruitment in entirety for the Fire & Emergency Services is required to be taken immediately.**
- **Considering the growing population and rapid urbanization the area which an existing fire brigade requires to handle keeps on expanding. Hence establishment of new fire stations**

means not only requirement of more manpower and increase in infrastructure which should be undertaken as a long-term solution.

- A common tax payer should not be saddled with the burden to bear the cost of ex-gratia compensation.
- The same should be recovered from the management of the nursing home/hospital which is found to have been lax in complying with the laws.
- Illegal Constructions should not be regularized by payment of a sum, by whatever name called.
- No nursing home, hospital, etc or an educational institution should be

permitted to operate in illegally constructed premise, even if subsequently regularized on payment of a sum, by whatever name called.

- **IS 2190 published by The Bureau of Indian Standards should be rigorously applied and implemented with appropriate further stringency as suggested.**
- **The schedule of inspection and maintenance of fire extinguishers needs to be followed as prescribed.**
- **The fire brigade should not rely on the statement of the management or the dealer/agency supplying the fire**

extinguishers for the purpose of issuing NOC/Fire Safety Certificate.

- **The procedure/modality of training staff of a nursing home/hospital needs to be specified with intervals prescribed at which a mock drill should be carried out without fail.**
- **In the long-term nursing homes/hospitals functioning in buildings which are primarily not built to be used for health care purposes should be made to shift to legally constructed premises.**
- **Guidelines have to be framed and laid down as to what kind of premises**

should be requisitioned under The Epidemic Diseases Act.

- **Such guidelines have to involve the local fire brigade in the decision-making process for the purpose of requisitioning a building.**
- **This will ensure that, as far as possible adherence to the requirements of National Building Code is ensured, like removal of obstructions in the premises, having specific staircase for emergency exit of appropriate size.**
- **As far as possible construction of a false ceiling in ICU must be prohibited. In the alternative, fire retardant material should be made compulsory.**

- **Use of fire-retardant material for mattresses, bed linen, curtains, furniture, etc. should be made compulsory atleast in ICUs.**
- **Automatic Fire Alarms linked with Smoke Detectors and Automatic Sprinklers have to be made compulsory.**
- **Not only installation but functionally effective Automatic Fire Alarms linked with Smoke Detectors and Automatic Sprinklers have to be ensured.**
- **All nursing homes/hospitals should have qualified firefighters on staff, which could be by way of either**

security or cleaning and maintenance personnel.

- **Such staff has to be appointed so as to be available at the time of all shifts round the clock.**
- **So far as connection for electrical power is concerned not only appropriate load should be sanctioned and obtained, but commensurate low smoke wiring, sockets, switches, etc. should be used.**
- **Loose or mismatched connections particularly in case of plug and sockets involving different sizes and capacity, including extension cords should not be permitted to be used.**

- **All MCBs should be replaced by ELCBs and the capacity of ELCBs should be such that it ensures reflection of even small spikes in power supply.**
- **There should be data available to ensure that obsolete critical medical equipments, whose effective life has ended, are not used year after year.**
- **There should be a policy to ensure that ventilators, patient monitors and other critical medical equipments which use electrical power are changed/replaced to prevent overheating of internal circuits.**
- **Therefore, in future while requisitioning a premise during a**

pandemic, a guideline should be available to determine whether a given nursing home/hospital should be requisitioned or not. The building should not be illegal; should have valid registration under The Clinical Establishments Act; should have valid fire safety certificate based on firefighting equipment which is having effective functional life; and, the fire safety certificate should also ensure that the critical medical equipments are within the effective functional life period of such equipments. The nursing home/hospital should also have trained persons who can act in time of emergency, and such persons

232

should be available 24x7 by being assigned duties in reasonable shifts.

GANDHINAGAR JUSTICE D. A. MEHTA





सत्यमेव जयते

**JUSTICE D. A. MEHTA
COMMISSION OF INQUIRY**

R E P O R T

**Into
The Incident of Fire
at
Uday Shivanand Hospital, Rajkot
on
27.11.2020**



सत्यमेव जयते

**JUSTICE D. A. MEHTA
COMMISSION OF INQUIRY**

R E P O R T

**Into
The Incident of Fire
at
Uday Shivanand Hospital, Rajkot
on
27.11.2020**

**THIS REPORT HAS BEEN
PRINTED ONLY ON ONE SIDE
OF PAGE AND THE REVERSE
SIDE OF EVERY PAGE HAS
BEEN INTENTIONALLY LEFT
BLANK.**

ACKNOWLEDGMENT

I gratefully acknowledge the cooperation extended by:

- ❖ Shri Bhupendrasinh Chudasama, Hon'ble Minister for Education, Law, etc
- ❖ Shri Pradipsinh Jadeja, Hon'ble Minister for Home, etc.
- ❖ Shri Kamal Trivedi, Learned Advocate General
- ❖ Ms. Manisha Lavkumar Shah, Learned Government Pleader
- ❖ Shri Pankaj Kumar, Addl. Chief Secretary, Home
- ❖ Shri Mukesh Puri, Addl. Chief Secretary, Urban Development
- ❖ Shri Anand Jinjala, Secretary, Urban Development
- ❖ Shri Ratilal Vasava, Deputy Secretary, Urban Development
- ❖ Shri Pankaj Joshi, Addl. Chief Secretary, Finance
- ❖ Shri Milind Torwane, Secretary, Finance

- ❖ Shri Udit Agrawal, Municipal Commissioner, Rajkot
- ❖ Ms. Remya Mohan, Dist. Collector, Rajkot
- ❖ Shri Mayur Chavda, IPS, Superintendent of Police, Gandhinagar
- ❖ Shri K. K. Bishnoi, Acting Director, Fire & Emergency Services, Gujarat
- ❖ Shri P. P. Vyas, Consultant, Fire & Emergency Services, Gujarat

I also acknowledge the sincere and unstinted support from my team of the Fee Revision Committee, Gandhinagar, namely:

- ❖ Shri Hemant P. Agrawal
- ❖ Ms. Gopi Ashokbhai Patel
- ❖ Shri Dipakkumar R. Parmar
- ❖ Ms. Nehaben Pratapbhai Barad
- ❖ Ms. Ishani Harishkumar Joshi
- ❖ Ms. Anitaba Gopalsinh Jethwa
- ❖ Shri Vishnubhai K. Parmar
- ❖ Shri Gautambhai M. Sisodiya

- ❖ Ms. Hansaben D. Makwana

without whom it would not have been possible to prepare and draft this report within this time frame.

Ofcourse, the sincere hard work put in by:

- ❖ Shri Giriraj Kanubhai Upadhyay, Secretary of the Commission, and
- ❖ Dr. Shri Harshvardhansinh R. Jadeja, Disbursal and Drawing Officer,

regardless of the time, whether a working day or a holiday cannot be lost sight of – heartfelt gratitude.

And last, but not the least, I am grateful to all my family members for constant support and cooperation.

GANDHINAGAR

JUSTICE D. A. MEHTA

I N D E X

| <u>Chapter</u> | <u>Contents</u> | <u>Page Nos.</u> |
|-----------------------|------------------------|-------------------------|
| I | INTRODUCTION | 1 - 18 |
| II | FACTS AND EVIDENCE | 19 - 114 |
| III | CAUSE | 115 - 118 |
| IV | NEGLIGENCE | 119 - 127 |
| V | RECOMMENDATIONS | 128 - 192 |
| VI | SUMMARY | 193 - 205 |

- 1.** On 27/11/2020 an Incident of Fire took place at Uday Shivanand Hospital Rajkot wherein 5 (five) Covid-19 patients expired. Considering the gravity of the incident, Government of Gujarat (GOG) entrusted Preliminary Inquiry to One Member Committee consisting of Shri A. K. Rakesh, IAS, Additional Chief Secretary, Panchayats, Rural Housing and Rural Development Department.
- 2.** Subsequent thereto, in exercise of power conferred by Section 3 of the Commissions of Inquiry Act, 1952 (the Inquiry Act) GOG appointed a Commission of Inquiry constituted by the undersigned to inquire into and report on and in respect of the Incident of Fire at Uday Shivanand

Hospital, Rajkot vide Notification number GK/34/2020/COI/102020/147/A dated 30th November, 2020. The terms of reference of the Commission are as under:

- "A. To inquire into exact sequence of events leading to the incident of fire which occurred on 27/11/2020 at Uday Shivanand Hospital, Rakot and the causes of the aforesaid incident;*
- B. Adequacy of fire safety measures existing at Uday Shivanand Hospital at the time of incident;*
- C. To ascertain whether the said incident of fire and the resultant deaths were the result of negligence or breach of duty on part of any one or more authorities or individuals.*
- D. To recommend suitable measures to prevent recurrence of such incidents."*

3

Paragraph No. 3 of the Notification reads as under:

"3. The commission should complete the inquiry and submit its report to the State Government within three months from the date of this notification."

The period of three months would thus expire on 28th February, 2021.

- 3.** Before the undersigned could take charge and commence the work of the Commission, GOG issued one more Notification, number GK/36/2020/COI/102020/155/A dated 11th December, 2020 appointing a Commission of Inquiry constituted by the undersigned to inquire into the Incident of Fire that took place at Shrey Hospital,

4

Navrangpura, Ahmedabad on 06/08/2020 wherein 8 (eight) Covid-19 patients expired.

- 4.** It may be noted that the Incident of Fire took place on 06/08/2020 and GOG directed a Preliminary Inquiry to be carried out by a Committee comprised of Ms. Sangeeta Singh, IAS, Additional Chief Secretary, Home Department and Shri Mukesh Puri, IAS, Additional Chief Secretary, Urban Development and Urban Housing Department. Pursuant to the report of the said Committee GOG vide Notification number GK/21/2020/COI/102020/101/A had appointed a Commission of Inquiry consisting of Hon'ble Justice K. A. Puj, Former Judge of the High Court of Gujarat.

5

However, vide the aforesaid Notification number GK/36/2020/COI/102020/155/A dated 11th December, 2020 the earlier Notification dated 11th August, 2020 was superseded.

5. The terms of reference for the Commission of Inquiry constituted by the Undersigned vide Notification dated 11th December, 2020 read as under:

- "A. To inquire into exact sequence of events leading to the incident of fire which occurred on 06/08/2020 at Shrey Hospital, Navrangpura, Ahmedabad and the causes of the aforesaid incident;*
- B. Adequacy of fire safety measures existing at Shrey Hospital at the time of incident;*
- C. To ascertain whether the said incident of fire and the resultant deaths were the result of*

6

negligence or breach of duty on part of any one or more authorities or individuals.

D. To recommend suitable measures to prevent recurrence of such incidents.”

Paragraph No. 3 of the Notification reads as under:

“3. The commission should complete the inquiry and submit its report to the State Government within three months from the date of this notification.”

The period of three months would thus expire on 11th March, 2021.

6. On 15th February, 2021 a common Application was made seeking extension of time to complete the inquiry and submit the Reports in the following words:



/c

માન. જસ્ટીસ ડી.એ. મહેતા તપાસ પંચ

(ઉદય શિવાનંદ હોસ્પિટલ-રાજકોટ અને શ્રેય હોસ્પિટલ-અમદાવાદની આગની ઘટના અંગે)

પ્રથમ માળ, STTI ભવન GCERT કેમ્પસ સેક્ટર-૧૨ ગાંધીનગર-૩૮૨૦૧૬.

Email: damjinquirycomm@gmail.com

અરક નં: Inq Com/ ૩૪૬-૩૪૧/૨૦૨૧

૧૫/૦૨/૨૦૨૧



To:

Additional Chief secretary,
Urban Development and Urban Housing Development,
New Sachivalaya,
Gandhinagar

Sub : Extension of Time to complete the Inquiry and Submit the Reports

Reff. : 1) Notification No. GK/34/2020/COI/102020/147/A, Dated 30th November, 2020 of Legal Department of Government of Gujarat, in relation to the Fire Incident at Uday Shivanand Hospital- Rajkot
2) Notification No. GK/36/2020/COI/102020/155/A, Dated 11th December, 2020 of Legal Department of Government of Gujarat, in relation to the Fire Incident at Shrey Hospital- Ahmedabad

Sir,

The above referred two Notifications contain identical paragraph number 3 which reads as under:

"The Commission should complete the inquiry and submit its report to the State Government within three months from the date of this notification."

Therefore, the three months period from the dates of Respective Notifications would expire: on 28/02/2021 for the Notification relating to the Incident of Fire which took place at Uday Shivanand Hospital, Rajkot; and on 11th March, 2021 for the Notification in relation to the incident of Fire which took place at Shrey Hospital, Ahmedabad.

Extension of time is sought for in light of the fact that considering the number of closed Saturdays, Sundays and other public holidays a period of 21 days gets deducted from the total period of three months.

mb
9/12/21
Clerk
Urban Development &
Urban Housing Department
Sachivalaya, Gandhinagar

Furthermore, as can be seen from the record the Secretary of the Commission of Inquiry was appointed only on 21st December, 2020, while other staff like D.D.O, Accounts Officer etc. came to be appointed only in the first week of January 2021.

Despite the fact that there was delay in appointment of the staff of the Commission of Inquiry, the collection of evidence is almost complete. The Commission of Inquiry therefore, requires time to draft and finalize the Reports to be submitted.

In light of foregoing, the period of three months for both the notifications may be appropriately extended upto 31st March, 2021.



GK Upadhyay
(Giriraj k Upadhyay) 15/02/2021
Secretary
Hon'ble Justice D A Mehta Commission
of Inquiry
Gandhinagar

- 7.** Vide two identically worded Notifications, both dated 25th February, 2021 Government of Gujarat amended Paragraph number 3 of Original Notifications vide Notification No. GK/4/2021/COI/102021/147/A for Uday Shivanand Hospital, Rajkot, and Notification No. GK/3/2021/COI/102021/155/A for Shrey Hospital, Ahmedabad as under:

"In the said notification, in paragraph 3, for words, figures and letters "within three months from the date of this notification." the words, figures and letters "on or before the 31st March, 2021." Shall be substituted."

- 8.** The undersigned took charge on 15th December, 2020. As there were no office premises for the Commission of Inquiry,

10

the undersigned, who was also appointed as the Chairperson of the Fee Revision Committee under the Provisions of Gujarat Self-financed Schools (Regulation of Fees) Act, 2017 orally requested Shri. Bhupendrasinh Chudasma, Hon'ble Minister for Education, Law, etc. to permit the undersigned to use the office premises of the Fee Revision Committee at Gandhinagar for the purpose of the work of the Commission of Inquiry. The Hon'ble Minister immediately permitted orally to use the office premises of the Fee Revision Committee at Gandhinagar. Hence, on 14th December, 2020 the undersigned took charge as Chairperson of the Fee Revision Committee in light of Resolution number

11

BMS/1217/558/FRC dated 10th December, 2020.

- 9.** Vide letter dated 21st December, 2020 bearing number AMN/102020/4076/P/L1 it was ordered that the office of Justice K. A. Puj Inquiry Commission should be immediately closed down and the entire record, budget, office premises etc. should be returned. Pursuant thereto under letter dated 16th December, 2020 the record was handed over to This Commission.
- 10.** On 21st December, 2020 vide Resolution number AMN/102020/4755/P/L1 sanction was granted for commencement of the office of This Commission.
- 11.** Vide Notification dated 21/12/2020 issued by the Legal Department, Shri Giriraj

12

Kanubhai Upadhyay, Former District Judge, was appointed as Secretary of This Commission. Pursuant thereto, Shri Giriraj Kanubhai Upadhyay was declared to be the Head of the Office for the purpose of all Administrative and Financial Matters relating to This Commission vide Resolution dated 21/12/2020.

- 12.** Shri Giriraj Kanubhai Upadhyay having taken charge on 21st December, 2020 as Secretary of the Commission, Office Order dated 22nd December, 2020 which reads as under, was issued by the undersigned determining the duties of Shri Giriraj Kanubhai Upadhyay as Secretary of the Commission.



માન.જસ્ટીસ ડી.એ.મહેતા તપાસ પંચ

(ઉદય શિવાનંદ હોસ્પિટલ-રાજકોટ અને શ્રેય હોસ્પિટલ-અમદાવાદની આગની ઘટના અંગે)

પ્રથમ માળ, STTI ભવન, GCERT કેમ્પસ, સેક્ટર-૧૨, ગાંધીનગર-૩૮૨૦૧૬.

જાવક નં: Inq Com/ 01/2020

તા.: 22/12/2020

Office Order

It is here by ordered that as per Notification No. GK/38/2020/COI/102020/101/A dated 21st December, 2020 of Legal Department, Government of Gujarat Gandhinagar, Shree Giriraj Kanubhai Upadhyay, Former District Judge is appointed as Secretary of this Commission and he took over charge on same day.

Urban Development and Urban Housing Department of Gujarat, Gandhinagar has declared, Shree Giriraj Kanubhai Upadhyay, Head of the Office of the commission by Resolution no. AMN/102020/4755/P/L1 dated 21/12/2020. The Secretary of the Commission shall be in charge of the office of the Commission.

He shall have power and authority to send and receive communications on behalf of the Commission and to receive Statements, Affidavits, Applications etc. that may be filed before the Commission. The Notifications, Notices, Processes, Requisitions and other Directions ordered to be issued by the Commission shall be signed by the Secretary of the Commission.



D A Mehta

(Justice D A Mehta)

Hon. Justice D A Mehta Commission of Inquiry
For Shrey Hospital, Ahmedabad
& Uday Shivanand Hospital, Rajakot

To :

Shree Giriraj Kanubhai Upadhyay
Secretary of the Commission.

13. On 22nd December 2020, the following order was also issued:



માન.જસ્ટીસ ડી.એ.મહેતા તપાસ પંચ

(ઉદય શિવાનંદ હોસ્પિટલ-રાજકોટ અને શ્રેય હોસ્પિટલ-અમદાવાદની આગલી ઘટના અંગે)
પ્રથમ માળ, STTI ભવન, GCERT કમ્પ્લેક્સ, સેક્ટર-૧૨, ગાંધીનગર-૩૮૨૦૧૨.

Date: 22/12/2020

ORDER

It is here by ordered that the Commission shall conduct its sittings in private in light of the prevailing pandemic situation, so that the prescribed norm of social distancing can be followed and implemented.

This order is made under Rule 2 of The Gujarat Commissions of Inquiry(Procedure) Rules, 1969.

By order and in the name of Hon'ble Justice D A Mehta Commission of Inquiry.





Giriraj K Upadhyay,
Secretary,
Hon'ble Justice D A Mehta Commission of Inquiry

15


14. Public notices to be issued and published for Uday Shivanand Hospital, Rajkot under Rule 3 of the Gujarat Commissions of Inquiry (Procedure) Rules 1969 (the Gujarat Rules) were sent on 22nd December, 2020. to the Information Department Government of Gujarat for publication in Gujarati Language in Divyabhaskar daily newspaper, Rajkot edition and Phoolchhab daily newspaper, Rajkot edition, as well as in English Language in Times of India daily newspaper, Gujarat edition. The said Notifications came to be published on 25th December, 2020.

15. On 04th January, 2021 the undersigned wrote to the Additional Chief Secretary, Home Department, Gandhinagar

16

requesting to permit utilization of services of an officer in terms of provisions of Section 5A of the Inquiry Act. The said communication reads as under:




માન. જસ્ટીસ ડી.એ. મહેતા તપાસ પંચ
 (ઉદય શિવાનંદ હોસ્પિટલ-રાજકોટ અને શ્રેય હોસ્પિટલ-અમદાવાદની આગની ઘટના અંગે)
 પ્રથમ માળ, STTI ભવન GCERT કમ્પ્લેક્સ સેક્ટર-૧૨ ગ્રાંધીનગર-૩૮૨૦૧૩.
 Email: damjinquirycomm@gmail.com

નંબર નો: Inq Com/ 68 - 69 /2021 તા. 04/01/2021

MOST URGENT

To:
Addl Chief secretary,
Home department,
Gandhinagar.

Sub : Request to permit utilization of services of an officer
Ref. : Section 5-A of The Commissions of Inquiry Act, 1952

Dear Sir,


The undersigned has been appointed by the Govt. of Gujarat to inquire into the incidents of fire which took place at :


(A) Uday Shivanand Hospital, Rajkot vide Notification No. GK/34/2020/COI/102020/147/A Dated 30th November, 2020.
(B) Shrey Hospital, Ahmedabad vide Notification No. GK/36/2020/COI/102020/155/A Dated 11th December, 2020

The Commission has to first collect, and then to sift evidence and material before it involving enormous preliminary investigation. This is a task which cannot humanly be performed by the Commission if the task has to be finished within a limited time. In the present case the time limit is three months each from the date of the respective Notifications.

Hence, kindly permit the undersigned to utilize the services of Shri Mayursinhji Chavda, Superintendent of Police, Gandhinagar for the purpose of conducting investigation pertaining to the inquiry in terms of provisions of Section 5-A of The Commissions of Inquiry Act, 1952.

Thanking You.

o/c 
 (Justice D. A. Mehta)
 Justice D. A. Mehta Commission of Inquiry,
 (For Uday Shivanand Hospital, Rajkot &
 Shrey Hospital, Ahmedabad)


 21/1/22

- 16.** Immediately on the next day, i.e., 05th January, 2021 vide communication from the Additional Chief Secretary, Home Department, the request made by the undersigned was accepted and Shri Mayur Chavda, IPS, Superintendent of Police, Gandhinagar was directed to carry out the Investigation Work as may be directed by This Commission. Shri Mayur Chavda, I.P.S has tendered his report which forms part of the record of This Commission.

17. On 06th January, 2021 summons were issued to the following persons to remain present at the time of Visit and Local Investigation of the affected premises of Uday Shivanand Hospital, Rajkot on 12th January, 2021 in terms of Rule 4A of the Gujarat Rules:

- I. Ileshbhai Valabhai Kher Chief, Fire Officer, Fire and Emergency Services, Rajkot.
- II. Manojkumar Jayntilal Hansaliya, Electrical Inspector, Rajkot
- III. Dr. Rinkal B. Viradiya, Medical Officer, Rajkot Municipal Corporation.
- IV. Ms. Farhinfatma Iqbalahemad Kadri, Scientific Officer FSL, Rajkot
- V. Yogesh Sumanlal Patel, Scientific Officer FSL, Rajkot
- VI. Chaitanya Jasvantbhai Karathiya FSL, Rajkot

VII. Manoharsinh Natvarsinh Jadeja, DCP Zone 2,
Rajkot.

18. Furthermore, a request letter was also issued to Ms. Remya Mohan, Collector and District Magistrate, Rajkot, Shri Udit Agrawal, Municipal Commissioner and Shri Babubhai Govabhai Prajapati, Deputy Commissioner, Rajkot Municipal Corporation regarding the visit of This Commission at Rajkot on 12th January, 2021.

19. The undersigned along with the officers of This Commission visited the affected premises at Uday Shivanand Hospital, Rajkot on 12th January, 2021, and the necessary Panchnama for the same has been drawn .The same is part of the

21

record. Subsequent thereto, the undersigned held a meeting with all the afroestated persons at the Government Circuit House, Rajkot.

20. In the visit which This Commission undertook for making local inspection for the affected premises of Uday Shivanand Hospital, Rajkot, the officers of This Commission, as directed by This Commission, carried out certain videography and also still photography. The said video recording and the photographs form part of record of This Commission.

21. Thereafter, the following 16 (sixteen) persons have tendered their statements on Affidavit along with Annexures pursuant to

notice issued to them under Rule 3 (a) of the Gujarat Rules. These Affidavits along with Annexures form part of the record.

UDAY SHIVANAND HOSPITAL
EVIDENCE COLLECTED BY WAY OF
AFFIDAVITS / STATEMENTS

| Sr. Nos. | NAME OF PERSON |
|-----------------|---|
| 1. | D. G. Prajapati, Deputy Municipal Commissioner, Rajkot Municipal Corporation |
| 2. | Dr. Lalit T. Vanjha, Health Officer, Rajkot Municipal Corporation |
| 3. | Dr. Manish Chunara, Medical Officer and In-charge Health Officer, Rajkot Municipal Corporation |
| 4. | Ms. Ritu Manojkumar Sharma, Scientific Officer (Chemical Division), Directorate of Forensic Science, Gandhinagar |
| 5. | Yogesh S. Patel, Assistant Director, (Chemical Division) FSL Rajkot |
| 6. | Ms. Farhin Fatma I. Kadri, In-charge Scientific Officer, (Toxicity Division) FSL Rajkot |

23

| | |
|-----|---|
| 7. | Chaitanya Jashvantbhai Karathiya, Scientific Officer (Physics Division), FSL Rajkot |
| 8. | Ileshbhai Valabhai Kher, Chief Fire Officer, Rajkot Municipal Corporation |
| 9. | Manojkumar Jayantilal Hansaliya, Electrical Inspector, Rajkot |
| 10. | Kishor Arvindkumar Sharma, Assistant Director (Physics Division), Directorate of Forensic Science, Gandhinagar |
| 11. | Hitesh J. Trivedi, In-Charge Assistant Director, Directorate of Forensic Science, Gandhinagar |
| 12. | Manoharsinh N. Jadeja, DCP Zone-II, Rajkot (Affidavit with charge-sheet) |
| 13. | Dr. Prakashchandra Gokaldas Modha |
| 14. | Dr. Digvijaysinh Bhagirathsinh Jadeja |
| 15. | Dr. Tejas Arjunbhai Motivaras |
| 16. | Vishal Prakashchandra Modha |
| 17. | Dr. Tejas Laxmanbhai Karamata |

22. Subsequent thereto, the undersigned, after going through the averments made in the Affidavits filed by different persons as well as all the Annexures filed along with the Affidavits, and the documentary evidence available with the Charge Sheet filed by the Police, examined some of the following persons. While a few of the following persons were examined, under directions of This Commission, by Shri Mayur Chavda, I.P.S. Superintendent of Police, Gandhinagar. The examination was conducted in presence of Shri Hitesh Raval, District Government Pleader, Gandhinagar District, who had been appointed vide communication dated 13th December, 2020, whereby Shri Hitesh Raval had been directed to represent the State

Government before the Inquiry Commission. These Depositions also form part of the record.

UDAY SHIVANAND HOSPITAL

**EVIDENCE IN THE FORM OF
EXAMINATION / CROSS EXAMINATION**

| Sr. No. | NAME OF PERSON |
|----------------|--|
| 1. | Kishor Arvindkumar Sharma, (19/01/2021) Assistant Director (Physics Division), Directorate of Forensic Science, Gandhinagar |
| 2. | Hitesh J. Trivedi, (19/01/2021) In-Charge Assistant Director, Directorate of Forensic Science, Gandhinagar |
| 3. | Ilesh V. Kher, (27/01/2021) CFO, Rajkot |
| 4. | Manoj J. Hansaliya, (28/01/2021) Electrical Inspector, Rajkot |
| 5. | Ms. Farhin Fatma I. Kadri, (28/01/2021) In-charge Scientific Officer, (Toxicity Division) FSL Rajkot |
| 6. | Chaitanya J Karathiya, (28/01/2021) Scientific Officer (Physics Division), FSL Rajkot |

26

| | |
|-----|--|
| 7. | Maheshbhai Maganbhai Kunvariya, Nursing Staff (30/01/2021) |
| 8. | Gauravbhai Dilipbhai Solanki, Clinical Assistant (30/01/2021) |
| 9. | Nileshbhai Vallabhbhai Kadavala, Nursing In-charge (30/01/2021) |
| 10. | Ms. Ektaben Parbatbhai Dangar, Nursing Staff (30/01/2021) |
| 11. | Ms. Binalben Hashmukhbhai Chauhan, Nursing Staff (30/01/2021) |
| 12. | Vishal Prakashchandra Modha (05/02/2021) |
| 13. | Dr. Tejas Laxmanbhai Karamata (05/02/2021) |

- 23.** The following persons, who are relatives of the deceased patients in the incident of fire which took place on 27/11/2020, were issued notice on 28th January, 2021 to file their statement or Affidavit on or before 11th February, 2021, in case they desired

to state anything more than what was stated before the Police Authorities.

1. Shri Amitbhai Ramshibhai Loh
2. Shri Manojbhai Thavarbhai Maheshwari
3. Ms. Sandhyaben Amrutlal Rathod
4. Shri Nileshbhai Amrutlal Rathod
5. Shri Rashminbhai Rasiklal Agravat
6. Shri Mayurbhai Rasiklal Agravat
7. Shri Ankitbhai Nitinbhai Badani
8. Shri Vivekbhai Keshubhai Akbari Patel
9. Ms. Sarojben Keshubhai Akbari Patel

24. Out of these 9 (nine) persons, 6 (six) persons have not responded. Shri Ankit Nitinkumar Badani has filed Affidavit dated 10th February, 2021 wherein he has categorically stated that there was violation of relevant laws by the management of Uday Shivanand Hospital,

28

Rajkot in as much as the Fire-fighting Equipments were not sufficient.

- 25.** On 11th February, 2021 Shri Vivek Keshubhai Akbari appeared personally on behalf of himself and his mother Ms. Sarojben Keshubhai Akbari. He has filed two Extension Applications and stated that he shall tender relevant documents and evidence on or before 17th February, 2021.
- 26.** Accordingly, two Statements and Affidavits which are dated NIL/02/2021 were received through courier on 17th February, 2021.
- 27.** Shri Vivek Keshubhai Akbari has stated in his statement that:

29

1. The emergency exit of ICU was closed and blocked by placing machinery in front of the door.
2. There was lack of ventilation in ICU ward resulting in smoke due to which death of patients took place.
3. There was presence of inflammable liquids like sanitizer in large quantity in the ICU ward.
4. In the entire hospital, though there were more than 53 Covid-19 affected patients, there was no emergency exit.
5. The staircase in the hospital was only 4 feet in width; and as there was only one staircase it was not sufficient.
6. There were no Fire signages nor was emergency exit denoted by use of reflectors.
7. The entrance door of ICU ward is having only three feet width which is less than prescribed.

30

8. The Nursing Staff was not qualified.
9. No staff member was trained to operate the Fire Extinguishers.
10. It is doubtful whether the Fire Safety Equipment was renewed or not.
11. The Hospital has failed to comply with the Rules and Guidelines laid down by the Government while granting permission to run a Covid-19 Hospital.
12. At the time of Fire incident sufficient staff was not present in the Hospital.
13. If the staff would have been present and had made efforts to save the patients then some of the staff members might have been injured, but none of the staff members were injured.
14. The Medical Equipments were not maintained at the optimum level.

- 28.** The Doctors in the management in Uday Shivanand Hospital, according to Shri Vivek Keshubhai Akbari, were only interested in earning lakhs of Rupees by adopting unfair practises. That despite the Police Authorities having found so many illegalities, the Doctors in-charge of management have been charged under section 304A of the Indian Penal Code instead of invoking and applying section 304 of the Indian Penal Code.
- 29.** Ms. Sarojben Keshubhai Akbari has made the same averments in her Affidavit. Both of them have requested for ensuring that the management of Uday Shivanand Hospital should be visited with appropriate punishment.

30. Shri Babubhai Govabhai Prajapati, IAS, Deputy Municipal Commissioner, Rajkot Municipal Corporation has tendered Affidavit dated 16th January, 2021. Along with the Affidavit he has enclosed Registration Certificate (Annexure-3) stated to have been issued to Shivanand Mission General and Multi- speciality Hospital. However, what is actually enclosed is Form – 'B', which is in fact an Application for registration under the Gujarat Nursing Homes Registration Act, 1949. There is no Registration Certificate on record.

31. Thereafter, at Annexure-4 is an order that has been made by the Municipal Commissioner on 11/07/2020 to commence Uday Covid Hospital with 22

33

(twenty-two) bed capacity on Rashtriya Shala Main Road.

32. An MOU was entered on 08th September, 2020 between Sivanand Mission Trust and Gokul Life Care Private Limited. Before that on 03rd September, 2020 Uday Covid Hospital made an Application to extend the Health Care services at Anand Bungalow Chowk in premises of Shivanand Mission Trust Hospital by increasing the bed capacity by 35 (thirty-five) beds.

33. On 10/11/2020 the Municipal Commissioner, Rajkot Municipal Corporation granted permission in the name of Uday Shivanand Hospital for totally 57 (fifty-seven) beds, 22 (twenty-two) beds as per earlier permission plus 35

34

(thirty-five) beds. This order was made on the basis of Application dated 27/10/2020 made by Uday Covid Hospital.

34. He has also enclosed the building plan which was presented by Netra Raksha Charitable Trust on 20/01/1981 and the commencement permission dated 22/05/1981.

35. Vide Annexure 13 he has placed on record Death Certificates of the following persons who lost their lives in the incident of Fire which took place on 27/11/2020:

1. Shri Ramshibhai Motibhai Loh
2. Shri Keshubhai Laljibhai Akbari
3. Shri Rasiklal Shantilal Agravat
4. Shri Nitinkumar Manilal Badani
5. Shri Sanjaybhai Amrutlal Rathod

36. On 29th January, 2021 Shri Prajapati has filed one more Affidavit enclosing therewith Death Certificate of Shri Thavar Devshi Maheshwari.

37. Dr. Lalit Tejabhai Vanjha, Health Officer, Rajkot Municipal Corporation has placed on record Affidavit dated 20/01/2021 comprised of 3(three) pages. Along with the Affidavit there are 8(Eight) Annexures totalling 58 (fifty eight) pages. As they are repetition of what is stated by Shri Babubhai Govabhai Prajapati it is not necessary to repeat their description. The only Annexure, that is not annexed with the Affidavit of Dr. Lalit Tejabhai Vanjha, is the building plan along with the commencement permission.

38. Dr. Manish Chunara, Medical Officer and In-Charge Health officer, Rajkot Municipal Corporation has filed Affidavit dated 27/02/2021 comprised of 3(three) pages. He has enclosed along with his Affidavit 9 (Nine) Annexures totalling 50 (fifty) pages. At Annexure 3 he has placed on record bye-laws framed relying on letter of 9th October, 1953 from Government of Bombay, Local Self-government and Health Department. In the said Annexure at serial number 8, relatable to Registration of Nursing Homes it has specifically been provided that for the purpose of charging registration fees the period will be from 1st April to 31st March every year.

37

39. At Annexure 4 Administrative Order made by the Municipal Commissioner on 22nd June, 2006 has been filed. By virtue of the said Order General Board Resolution number 28 dated 17th June, 2006 has been directed to be implemented. Vide the said Resolution the General Board of Rajkot Municipal Corporation has amended the terms of Registration of Nursing Homes. At serial number 8(Ka), it is stated that the fee shall be as stated, namely for the period from 1st April to 31st March every year, but it will be possible to obtain registration for a period of 5 years.

40. It appears that subsequently the Urban Development Department did not approve the level of fees and therefore the General Board passed Resolution number 3 dated

20th April, 2007. This was directed to be implemented vide Administrative Order dated 25/04/2007.

41. On 24/08/2007 a Public Notification was issued, which is available at Annexure 8. In the said Notification there is no mention regarding the period for which registration is to be granted. However, the original stipulation about the registration fee being for a period from 1st April to 31st March every year finds place in the Notification. In other words, the proposed amendment in the bye-laws did not find place in the Public Notification.

42. At Annexure 9 is a communication dated 05/08/2008 from the Health officer to the Deputy Health officer (East) stating that as

39

per permission of the Municipal Commissioner the registration period under the Bombay Nursing Homes Act will be for period of 1 to 5 years.

- 43.** The Gujarat Nursing Homes Registration Act, 1949 (Formerly known as The Bombay Nursing Homes Registration Act, 1949) (hereinafter referred to as GNHR Act) provides for Registration and Inspection of Nursing Homes. Section 4 of the GNHR Act deals with application for registration and reads as under:

"4. (1) *Every person intending to carry on a nursing home shall make every year an application for registration or the renewal of registration to the local supervising authority:*

40

Provided that in the case of a nursing home which is in existence in any area at the date of the coming into force of section 3 in that area an application for registration shall be made within three months from such date.

(2) Every application for registration or the renewal of the registration shall be made on such date and in such form and shall be accompanied by such fee, as may be prescribed."

44. Section 5 of the GNHR Act provides for registration empowering the local supervising authority to issue a certificate of registration in the prescribed form. Sub-section (2) of Section 5 of the GNHR Act reads as under:

"(2) A certificate of registration issued under this section shall, subject to the provision of section 7, be in force and shall be valid until

41

the 31st day of March next following the date on which such certificate was issued.”

45. Section 16 of the GNHR Act gives power to the State Government to make rules, and the said section reads as under:

“16. (1) The State Government may, by notification in the official Gazette, make rules to carry out all or any of the purpose of this Act.

(2) Without prejudice to the generality of the foregoing provisions such rules may prescribe-

(a) the form of the application to be made under section 4,

(b) the date on which an application for registration or renewal of registration to be made and the fees to be paid for such registration or renewal of registration,

42

(c) *the form of certificate of registration to be issued under section 6,*

(d) *for any other matter for which no provision has been made in this Act, and for which provision is, in the opinion of the State Government, necessary.*

(3) *The power to make rules under this section shall be subject to the condition of previous publication in the Official Gazette."*

46. Section 17 of the GNHR Act empowers the local supervising authority to make by-laws not inconsistent with this Act or Rules and reads as under

"17. (1) The local supervising authority may make by-laws not inconsistent with this Act or rules-

(a) *Prescribing the records to be kept of the patients received into a nursing home, and in case of the maternity home, of miscarriages,*

43

abortions or still births occurring in the nursing home and of the children born therein and of the children so born who are removed from the home otherwise than to the custody or care of any parent, guardian or relative;

(b) requiring notification to be given of any death occurring in the nursing home.

(2) Any by-law made by a local supervising authority under this Act may provide that a contravention thereof shall be punishable-

(a) with fine which may extend to fifty rupees; or

(b) with fine which may extend to fifty rupees and in the case of a continuing contravention, with an additional fine which may extend to fifteen rupees for every day during which such contravention continues after conviction for the first such contravention; or

(c) with fine which may extend to fifty rupees for every day during which the contravention continues after the receipt of a notice from

44

the local supervising authority by the person contravening the by-laws requiring such person to discontinue such contravention.

(3) No by-laws made by the supervising authority shall come into force until it has been confirmed by the State Government with or without modification.

(4) All by-laws made under this section shall be published in the Official Gazette."

47. A conjoint reading of aforesaid makes it clear that every person who intends to carry on a Nursing Home is required to make an application for registration, or renewal of registration, every year to the local supervising authority in the form that is prescribed and accompanied by the fees that are prescribed. Section 5 (2) of the GNHR Act stipulates that the registration

45

certificate which is issued in the prescribed form as required by Section 5 (1) of the GNHR Act, shall be in force and valid until the 31st day of March next following the date on which such certificate was issued.

Therefore, as per the relevant provision of the GNHR Act a certificate of registration is valid only for a period of 1 year or part thereof, and an application for registration for renewal of registration has to be made every year.

- 48.** Section 16 of the GNHR Act specifies what Rules the State Government may make. It is provided that the State Government should prescribe the application form, the form of the certificate of the registration, and for the date on which the application of registration or renewal is to be made, as

well as the fees to be paid for such registration or renewal of registration.

- 49.** The bye-laws which the Local Supervising Authority can make cannot be inconsistent with the provisions of the GNHR Act and the Rules made there under.
- 50.** Despite this position in the GNHR Act, and the fact that a copy of the Rules is not available, Rajkot Municipal Corporation has been granting registration for a period of 5 years. When called upon to explain, reliance was placed on the various Annexures filed along with his Affidavit by Dr. Manish Chunara. As already noticed there is no legal basis for any such decision.

- 51.** In light of this position The Commissioner, Health Services, Medical Services, Gandhinagar was called upon to clarify whether any Notification has been issued for applicability of the provisions of GNHR Act in all areas of state of Gujarat other than city of Ahmedabad; whether any rules under Section 16 of the GNHR Act have been framed; and to supply the latest amended copy of the GNHR Act along with Rules, if any.
- 52.** On behalf of The Commissioner, the Additional Director (Medical Services), Dr. Hitendra kumar K. Bhavsar tendered Affidavit Dated 03rd March, 2021 along with Annexures (39 Pages). Subsequent there to an Additional Affidavit dated 04th March, 2021 has been tendered, and in the said

Additional Affidavit Paragraph 2 (two)
reads as under:

"2. With respect to the contention raised in ground (3), the implementation of Gujarat Nursing Homes & Registration Act, 1949 is not implemented in area other than the municipal corporation. The said act is implemented by the local supervising authority as per the provision of Section 2(2) & urban hospital comes under the Urban Development Department – Secretary, Govt. of Gujarat."

- 53.** Shri Yogesh Sumanlal Patel, Assistant Director, Chemical Division, Regional Forensic Science laboratory, Rajkot has tendered Affidavit dated 13th January, 2021 along with his Report dated 03/12/2020 filed before Police Authorities On the basis of his report, he has stated in

his Affidavit that on examination of 11(eleven) samples marked A, B, C, D, E, F, G, H, I, N & O no traces of either Petroleum Hydrocarbons or Petrol and Kerosene containing dye pigments were found in any of the samples.

- 54.** Ms. Ritu Manojkumar Sharma, Scientific Officer (Chemical Division) serving at Directorate of Forensic Science, Gandhinagar has filed Affidavit dated 18/01/2021 (2 pages) along with analysis Report dated 07th January, 2021. It is stated in the Affidavit that the parcel contained two samples marked A-1 and marked A-2, which were described as: Sample marked A-1 is a metal box shaped machine which contains the writing "DHAMAN", and Sample marked A-2 was a

metallic machine on which it was written "H-100 RESPIRATORY HUMIDIFIER". Both the samples were analysed and no traces of residual Petroleum Hydrocarbons were found.

- 55.** Ms. FarhinFatema Iqbalahemad Kadri (In-Charge Scientific Officier) (Toxicity Division), Regional Forensic Science Laboratory, Rajkot has tendered Affidavit dated 13th January, 2021 (6 pages) along with 3 Annexures (8 pages). It is stated that she had visited the Crime Scene, firstly between 03.30 hours to 03.50 hours on 27/11/2020, but as there was insufficient light due to night time the Investigating Officer was informed to preserve the Site as it is. Subsequently on the same day she again visited the Crime

51

Scene from 10.30 hours to 14.00 hours in presence of the Investigating Officer. It is further stated in the Affidavit that one ventilator unit which was situated between bed numbers 102 and 103 had been burnt and completely damaged; the input pipe which was made of rubber and PVC was burnt and melted; on rear side there were 3 Valves fitted to metal pipes, out of which the first valve from left hand side had separated from the pipe, while other two valves were intact; the glass tube of the said ventilator was intact.

- 56.** It is further stated that below the said ventilator there was a machine on which there was writing "H-100, Respiratory Humidifier, Jyoti, RHP medical" and "Hot surface up to 75°C". The said machine was

damaged, burnt and melted; the switch on the said machine was in the "ON" position.

- 57.** In the ICU ward the other ventilators as well as the tubes of plastic/PVC contained effect of fire to a lesser degree. Thus, considering the effect of fire on the ceiling between bed numbers 102 and 103 it was her opinion that *Prima face* this was the starting point of the fire.
- 58.** In the Affidavit in paragraph number 4 she has made suggestion at serial number 1 to the Investigating Officer to have the ventilator and humidifier analysed before a government approved institution undertaking analysis of medical instruments.

59. Ms. FarhinFatema Iqbalahemad Kadri was Cross Examined on 28th January, 2021 and this is what was stated:

**"BEFORE THE JUSTICE D.A.MEHTA
INQUIRY COMMISSION**

AT GANDHINAGAR

**IN THE MATTER OF INQUIRY IN THE
INCIDENT OF FIRE ON**

**27.11.2020 AT UDAY SIVANAND
HOSPITAL, RAJKOT**

**UNDER THE COMMISSIONS OF
INQUIRY ACT, 1952**

***MS. FARHINFATMA IQBALAHEMAD
KADRI (IN CHARGE SCIENTIFIC
OFFICER) (TOXICITY DIVISION) is
administered oath BY JUSTICE D A
MEHTA INQUIRY COMMISSION***

***CROSS EXAMINATION OF MS.
FARHINFATMA IQBALAHEMAD KADRI***

54

**(IN CHARGE SCIENTIFIC OFFICER)
(TOXICITY DIVISION) ON 28th
JANUARY, 2021**

Upon being questioned I state:

Though for my personal reference I had taken certain photographs on my cell phone at the time of Crime Scene Visit, after preparation of the Crime Scene Visit Report I have deleted those photographs. However, I had asked the Investigating Officer to have the Crime Scene Visit Videographed and the said video Recording would be available with the Investigating Officer. I do not have copy of such Video Recording.

With reference to suggestion number 1 in paragraph number 4 of my Affidavit dated 13/01/2021 which is reproduction of the actual Crime Visit Report, the said suggestion to have the ventilator and humidifier analyzed before a Government approved Institutions undertaking analysis of Medical Instruments was made because in the FSL no expert on this subject is available. Upon subsequent inquiries I have come to know that possibly D.R.D.O. Pune may be one of such Institutions. However, I cannot say with surety.

I do not have to state anything more than I have already stated in my Affidavit.

The aforesaid is rough English Translation of the replies tendered by me in Gujarati, and the same is correct.

No further questions are put to the deponent. The cross-examination stands concluded.

Gandhinagar.
28/01/2021

Sd/-
Deponent
MS. F. I. KADRI
IN CHARGE SCIENTIFIC OFFICER

In my presence
Sd/-
Hitesh Raval
(D.G.P Gandhinagar)

- 60.** Shri Chaitanya Jashvantbhai Karathiya, Scientific Officer, Regional Forensic Science Laboratory, Rajkot has filed Affidavit dated 13/01/2021 (5 pages). Along with the Affidavit he has enclosed FSL Analysis Report dated 03/12/2020 (4 pages) and 1(one) CD containing

photographs of the various samples / parcels analysed by him.

61. He has analyzed Sample J (plug wire), Sample K (switch board), Sample L1 (half burnt wiring), Sample L2 (half burnt wiring) Sample M1 (switch board) and Sample M2 (electric wires). His findings are: that all the samples showed signs of external heat, and all the samples did not show any classic signs of short-circuit.

62. Upon being Cross Examined on 28/01/2021 Shri Chaitanya Jashvantbhai Karathiya stated:

**"BEFORE THE JUSTICE D.A.MEHTA
INQUIRY COMMISSION
AT GANDHINAGAR**

**IN THE MATTER OF INQUIRY IN THE
INCIDENT OF FIRE ON**

**27.11.2020 AT UDAY SIVANAND
HOSPITAL, RAJKOT**

**UNDER THE COMMISSIONS OF
INQUIRY ACT, 1952**

**SHRI CHAITANYA JASHVANTBHAI
KARATHIYA SCIENTIFIC OFFICER
(PHYSICS DIVISION) is administered**

oath BY JUSTICE

D A MEHTA INQUIRY COMMISSION

CROSS EXAMINATION OF SHRI

CHAITANYA JASHVANTBHAI

KARATHIYA SCIENTIFIC OFFICER

(PHYSICS DIVISION)

ON 28th JANUARY, 2021

Upon being questioned I state:

Parcel J containing plug wire is plug wire of ventilator machine (dhaman) of bed number 103 as described in the yaadi of Police Authorities while forwarding the samples (muddamal).

On analysis it has been found that the three-pin male plug appeared to be a moulded pug and was half burnt and had melted. Furthermore, the three wires, black, green-yellow, and red had stuck with each other and the sleeve insulation had melted due to external heat.

I further state that I was also present along with Ms. Farhinfatma Iqbalahmed Kadri at the time of Crime Scene Visit and state from my memory that it was only the ventilator humidifier unit of bed no. 103 which was found damaged while the ventilator humidifier units near all other beds were intact. Therefore, it can be presumed that the starting point of fire was in the said unit near bed number 103. This is also established when one considers the effect of fire in the ceiling near bed number 103.

I further state that I shall furnish hard copies of photographs from my other records to show the difference between effect of external heat and the effect of internal heat, as requested by the Inquiry Commission, as soon as possible, but not later than 05/02/2021.

I do not have to state anything more than I have already stated in my Affidavit.

The aforesaid is rough English Translation of the replies tendered by me in Gujarati, and the same is correct.

No further questions are put to the deponent. The cross-examination stands concluded.

*Gandhinagar.
28/01/2021*

*Sd/-
Deponent
SHRI. C. J. KARATHIYA
SCIENTIFIC OFFICER*

*In my presence
Sd/-
Hitesh Raval
(D.G.P Gandhinagar)*

63. As stated during Cross Examination, Shri Chaitanya Jashvantbhai Karathiya, under cover of letter dated 29/01/2021 has sent 2(two) pages showing photographs to denote the difference between effect of external heat and effect of internal heat. It may be clarified that these photographs are illustrative and relate to the Exhibits/ Samples from some other Crime Scene, and have no nexus with any of the Samples/ Exhibits taken from ICU ward of Uday Shivanand Hospital.

64. Shri Hitesh Jayantilal Trivedi, In-Charge Assistant Director, Directorate of Forensic Science, Gandhinagar has placed on record Affidavit dated 15th January, 2021 (2

pages) along with 3 Annexures (27 pages). The first Annexure is the Report, regarding Examination of Exhibits, to the Investigating officer, Malaviyanagar Police Station, Rajkot; the second is various photographs showing the sequence of Incident of Fire; and the third Annexure is two DVDs filed along with the Analysis Report.

- 65.** In his Affidavit, it has been stated that the police have forwarded "one (01) 'HIKVISION' make DVR having one (01) 'Toshiba' made Hard Disk having size 4TB storage capacity." It is further stated in his Affidavit that CCTV video footage of 27/11/2020 between 00.00.01hours to 00.48.46 hours for camera numbers 01 to 07 and camera numbers 09 to 13 were

61

found present in the Hard Disk of the DVR. That there was no sign of editing/ altering / modifying the CCTV video footages. He has further stated in the Affidavit that there was a time lag of about 13 minutes and 07 seconds in the date and time settings of the DVR; therefore, considering this time difference, the fire started at 00.35.21 hours. The photographs, retrieved from the video footages, attached with the Analysis Report are for the period 00.35.21 hours to 00.36.05 hours of 27/11/2020 from camera number 7. Shri Hitesh Jayantilal Trivedi was Cross Examined on 19th January, 2021 and he has confirmed that video footage from camera number 8 and camera numbers 14 to 16 is missing.

66. Shri Kishor Arvindkumar Sharma, Assistant Director (Physics Division), Directorate of Forensic Science, Gandhinagar has filed Affidavit dated 15th January, 2021(3 pages) along with two Annexures. One is The Analysis Report (3 pages) and the second is one DVD. In the Affidavit it is stated that the parcel sent by police contained two machines described as samples A1 and A2. The equipment sample / mark A1 is in the form of an Iron box bearing the word "Dhaman", the external examination shows that on the top right hand side effect of extreme heat can be seen; four knobs on the right hand side and two knobs on the left hand side, both on the upper side, are burnt and destroyed; the display on the front side is

burnt / melted. After carrying out photography, the lid was opened from the upper side and on the inside part the right hand corner as well as the right hand side contained specific pattern of soot denoting extreme external heat; However, the internal wiring did not contain any classic sign of short-circuit except the coating was partially affected due to heat.

- 67.** So far as sample mark A2 is concerned the same is also a metallic equipment which had the words "H-100 Respiratory Humidifier". The external part showed effect of heat from outside but the internal wiring was found to be without any signs of Fire.

68. Finally, it has been opined that there are no signs of short-circuit.
69. On 19th January, 2021 Shri Sharma was Cross Examined and his deposition reads as under:

BEFORE THE JUSTICE D.A.MEHTA
INQUIRY COMMISSION

AT GANDHINAGAR

IN THE MATTER OF INQUIRY IN THE
INCIDENT OF FIRE ON

27.11.2020 AT UDAY SIVANAND
HOSPITAL, RAJKOT

UNDER THE COMMISSIONS OF
INQUIRY ACT, 1952

SHRI K. A. SHARMA (FSL
GANDHINAGAR) is administered oath
BY JUSTICE D A MEHTA INQUIRY
COMMISSION
CROSS EXAMINATION OF SHRI K. A.
SHARMA
(FSL GANDHINAGAR)
ON 19th JANUARY, 2021

Upon being questioned I state:

My Affidavit dated 15/01/2021 is based on my analysis report dated 07/01/2021.

I have no expertise as regards the design and the components of the ventilator and the said fact was also informed to the Investigating Officer. I have examined the Equipment which is in the form of an Iron Box bearing the word "DHAMAN". The said part has been described as sample A-1 by My Department. Furthermore, there was another metal part which had the words "H-100 RESPIRATORY HUMIDIFIER" written on it.

In paragraph number 3 of my Affidavit, I have already stated that from the Respiratory Humidifier one cable wire goes out from one terminal whose other end (of that wire) is burnt and melted. Similarly, there was another connection at the end of which there was a plug pin which has been burnt / melted and has formed into a burnt lump from which it is not possible to state whether inside that lump there has been any beading or not. The other part of the cable which is travelling from the lump of plug pin having length of about 4 feet 3 inches is completely burnt and the insulation having been burnt completely the wires inside are open and visible.

In so far as the box bearing sample A-1 is concerned upon opening of the lid it is found that on the right side corner and internal right side there is typical pattern of soot which is formed when the metal cover gets heated from outside

resulting in internal parts being burnt after getting heated. On a close scrutiny of the internal wiring the said wiring and the insulation is partially affected due to the heat from above.

It is in the aforesaid backdrop that I have opined that there is no indication of short-circuit anywhere.

Further I state that no date or year of manufacture is visible on the Equipment. Nor does the Equipment bear any standard marking like ISI etc.

I have not compared the sample Equipment with any other functional unit of the same make.

I further state that it is possible that the burnt end of wiring could be due to heat generated because of constant use of the machinery. Further it is possible that the wire may have burnt due to heat generated on account of resistance being more if substandard quality of wiring has been used.

I lastly state that I have nothing more to add to the Affidavit that I made.

The aforesaid is rough English Translation of the replies tendered by me in Gujarati, and the same is correct.

67

No further questions are put to the deponent. The cross-examination stands concluded.

*Gandhinagar.
19/01/2021*

*Sd/-
Deponent
Shri. K. A. SHARMA
FSL GANDHINAGAR*

In my presence

*Sd/-
Hitesh Raval
(D.G.P Gandhinagar)*

- 70.** In light of the averments made in the Affidavit and the Cross-Examination Shri Sharma was asked to file complete set of photographs (18) as well as a copy of the rough drawing with notings made by Shri Sharma, which was existing in the original file with him. On going through the photographs as well as the drawing and rough notes of Shri Sharma, it was found that the actual equipments should be seen

to understand the notings made by Shri Sharma in relation to the rough sketch.

71. Accordingly, inquiries were made with the Police Authorities, who informed that the said two pieces of equipment were available with the police for inspection. Hence, summons were issued to:

1. Shri Jayeshbhai Veljibhai Dhola, Police Inspector, Rajkot Taluka Police Station, Rajkot to appear and give his deposition on 9th February 2021;
2. Shri Krunal Nathabhai Bhukan, Police Inspector, Malaviyanagar Police Station, Rajkot to appear and give his deposition on 8th February 2021. However, Shri Krunal Nathabhai Bhukan made an application for adjournment. Accordingly the date for recording his deposition was changed to 11th February, 2021, as desired;

3. Shri Manoharsinh Natvarsinh Jadeja, Deputy Police Commissioner, Zone 2, Rajkot to appear and give his deposition on 10th February 2021.

72. The deposition of Shri Manoharsinh Natvarsinh Jadeja, Deputy Police Commissioner, Zone 2, Rajkot recorded on 10th February, 2021 reads as under:

BEFORE THE JUSTICE D.A.MEHTA
INQUIRY COMMISSION
AT GANDHINAGAR
IN THE MATTER OF INQUIRY IN THE
INCIDENT OF FIRE ON
27.11.2020 AT UDAY SHIVANAND
HOSPITAL, RAJKOT
UNDER THE COMMISSIONS OF
INQUIRY ACT, 1952

SHRI MANOHARSINH NATVARSINH
JADEJA (DEPUTY POLICE
COMMISSIONER, ZONE 2, RAJKOT) is
administered oath BY JUSTICE
D A MEHTA INQUIRY COMMISSION

**CROSS EXAMINATION OF SHRI
MANOHARSINH NATVARSINH JADEJA
(DEPUTY POLICE COMMISSIONER,
ZONE 2, RAJKOT) ON
10th February, 2021
Upon being questioned I state:**

With reference to my statement on page 2 of my Affidavit dated 15th January, 2021 I state that the written report of the officer from the Fire Department would be available with the Investigating Officer. I undertake to have the same produced tomorrow i.e. 11th February, 2021.

I further state that it is correct that the Incident of Fire which took place in the ICU Ward on the night of 26-27/11/2020 at Uday Shivanand Covid Hospital Anand Bungalow Chowk, Rajkot falls within territorial jurisdiction of Malaviyanagar Police Station.

There is nothing in writing to indicate why the Investigation was transferred from the Police Inspector of Malaviyanagar Police Station, Shri K. N. Bhukan to the Police Inspector of Rajkot Taluka Police Station, Shri J. V. Dhola. However, it is likely that as the P.I., Malaviyanagar Police Station was overloaded with work, further Investigation was transferred to the P.I., Rajkot Taluka Police Station.

I cannot state as to whether the ventilator which was seized and sent for analysis to FSL Rajkot was returned by FSL Rajkot in a sealed condition or not. Only the Investigating Officer will be able to reply about the same.

It is true that neither the National Building Code nor the National Accreditation Board for Hospitals are directly applicable in the case, but they have been referred to and applied as Advisory Guidelines for the purposes of coming to the conclusion that the management of Uday Shivanand Covid Hospital did not follow the guidelines relatable to Fire Safety considering the report of the Fire Department.

I further state that what is stated in the First Information Report dated 29th November, 2020 regarding the emergency exit of ICU Ward being blocked by machinery, which was kept near the door, is in context of the requirement of Fire Safety.

I state that the Police Department was not informed about the Incident of Fire by the Hospital Management or any other staff member of the Hospital. There is a Chowk known as Anand Bungalow Chowk at a slight distance of Uday Shivanand Covid Hospital, where on the night of 26-27/11/2020 two Home Guards and one police constable were on night duty. When they saw the vehicle of Fire Brigade as well as Ambulance of Gokul Hospital going towards Uday Shivannad Covid Hospital, they pursued the said vehicles on a motor cycle and learnt about the incident of Fire. The said team thereafter informed the P.S.I., who in turn informed the P.I., and that is how the Police came to know about the incident of Fire.

The Interim Report which was prepared by the Special Investigation Team (SIT) formed as directed by the Commissioner of Police, Rajkot was headed by me. I do not have the copy of the said Interim Report at this point of time with me. However, I shall arrange to have it delivered tomorrow i.e. 11/02/2021.

I do not have to state anything more than what I have already stated in my Affidavit.

The aforesaid is rough English Translation of the replies tendered by me in Gujarati, and the same is correct.

No further questions are put to the deponent. The cross-examination stands concluded.

*Gandhinagar.
10/02/2021*

*Sd/-
Deponent
Manoharsinh N. Jadeja
Deputy Police Commissioner,
Zone 2, Rajkot*

*In my presence
Sd/-
Hitesh Raval
(D.G.P Gandhinagar)*

73. The deposition of Shri Jayeshbhai Veljibhai Dhola, Police Inspector, Rajkot Taluka Police Station, Rajkot recorded on 9th February, 2021 reads as under:

BEFORE THE JUSTICE D.A.MEHTA
INQUIRY COMMISSION

AT GANDHINAGAR

IN THE MATTER OF INQUIRY IN THE
INCIDENT OF FIRE ON
27.11.2020 AT UDAY SHIVANAND
HOSPITAL, RAJKOT

UNDER THE COMMISSIONS OF
INQUIRY ACT, 1952

SHRI JAYESHBHAI VELJIBHAI DHOLA
(P.I., RAJKOT TALUKA POLICE
STATION) is administered oath BY
JUSTICE
D A MEHTA INQUIRY COMMISSION

CROSS EXAMINATION OF SHRI
JAYESHBHAI VELJIBHAI DHOLA (P.I.,
RAJKOT TALUKA POLICE STATION) ON
9th February, 2021

Upon being questioned I state:

I have been working as Police Inspector, Rakot Taluka Police Station, Rajkot since last about fifteen (15) Months. Prior thereto, I was posted at Devbhoomi Dwarka.

I have taken over the Investigation on and with effect from 29/11/2020 as directed by the Commissioner of Police, Rajkot.

Though both of us, i.e. myself and PI Shri. K. N. Bhukan belong to the same batch, I am senior to him in rank. Upon being asked, I state that it may be possibly one of the reasons for handing over the Investigation to me.

The location of the Incident of Fire, i.e. ICU Ward of Uday Shivanand Hospital, near Anand Bungalows Chowk falls within the jurisdiction of Malaviyanagar Police Station. That is why the preliminary investigation was carried out by PI Shri. K. N. Bhukan.

Both Malaviyanagar Police Station and Rajkot Taluka Police Station fall within the same Zone and Division i.e. Zone 2, and Division South.

The Ventilator, which is more properly described at serial number 14 of the list of articles (muddamaal) seized on 27/11/2020 under muddamaal pavti Number UB/66/2020/MT/1, was in a sealed condition, while all other Articles were already sent for analysis to the FSL Rajkot.

The Ventilator machine which was seized under the aforesaid muddamaal Pavti Number UB/66/2020/MT/1, more particularly described at serial number 14, was originally sent for analysis to FSL Rajkot. However, FSL Rajkot returned the same stating that the Officers therein are not competent to analyze the said equipment.

After it was returned by FSL Rajkot the said Article was lying in Malaviyanagar Police Station from where I took it to the Rajkot Taluka Police Station. At that time it was in a sealed condition. There is no written document recording either handing over or taking over of the said article.

Thereafter, after consulting my senior, the said equipment was sent for analysis under Forwarding Note (ravangi nondh) on 16/12/2020 under outward number 8839/20. I am stating this in detail in reply to the question as to the difference in the description of the Article in Forwarding Note and at Serial Number 14 of Muddaal Pavti Number UB/66/2020/MT/1.

I further state that I shall not be able to identify whether it is the same machine which was seized on 27/11/2020 by P.I., Shri. K. N. Bhukan. Upon being asked I further state that in fact at present this Article is in custody of P.I., Shri. K. N. Bhukan, I was only the Investigating Officer. Subsequent thereto the entire record is available in Malaviyanagar Police Station. Therefore, if so directed by the Inquiry Commission, this Article can be brought for Investigation by P.I., Shri. K. N. Bhukan when he is to appear before the Inquiry Commission.

I do not have to state anything more than what I have already stated in my Affidavit.

The aforesaid is rough English Translation of the replies tendered by me in Gujarati, and the same is correct.

No further questions are put to the deponent. The cross-examination stands concluded.

Gandhinagar.
09/02/2021

Sd/-
Deponent
Jayeshbhai V. Dhola
P.I., Rajkot Taluka Police Station

In my presence
Sd/-
Hitesh Raval
(D.G.P Gandhinagar)

- 74.** The deposition of Shri Krunal Nathabhai Bhukan, Police Inspector, Malaviyanagar Police Station, Rajkot recorded on 11th February, 2021 reads as under:

BEFORE THE JUSTICE D.A.MEHTA
INQUIRY COMMISSION

AT GANDHINAGAR

**IN THE MATTER OF INQUIRY IN THE
INCIDENT OF FIRE ON**

27.11.2020 AT UDAY SHIVANAND
HOSPITAL, RAJKOT

**UNDER THE COMMISSIONS OF
INQUIRY ACT, 1952**

SHRI KRUNAL NATHABHAI BHUKAN
(P.I., MALAVIYANAGAR
POLICESTATION, RAJKOT) is
administered oath BY JUSTICE
D A MEHTA INQUIRY COMMISSION

CROSS EXAMINATION OF SHRI
KRUNAL NATHABHAI BHUKAN (P.I.,
MALAVIYANAGAR POLICESTATION,
RAJKOT) ON 11th February, 2021

Upon being questioned I state:

I have been in Malaviyanagar Police station from 17/07/2020. Before that I was in Ahmedabad Rural for 3 years. Prior that to I was in Rajkot Rural.

I came to know about fire upon receiving a phone call from a member of public

who had gathered at the site of incident. It was around 0.45 hours.

On the day the FIR was filed, i.e 29/11/2020 P.I Shri J V Dhola took over the investigation as per the direction of my Superior officer. I cannot state the reason why the investigation was transferred from me to Shri J V Dhola

At the time of handing over the investigation to P.I. J V Dhola I had given in writing that in light of written instruction of superior officer you have to conduct the investigation from now onwards. The said document is available at Page No. 133 along with the Affidavit of Shri Manoharsinh N. Jadeja, DCP, Zone 2.

The ventilator which was seized by me from the ICU ward of Uday Shivanand Hospital was handed over to P.I. Dhola in a sealed condition. The list of the articles including the ventilator which was seized, is available under Muddamal Pavti no UD/66/2020/MP/1 dated 27/11/2020, which is available at Page No.128 of the documents filed along with the Affidavit of Manhorsinh N. Jadeja DCP, Zone 2

I further state that I have produced the sealed parcel containing the ventilator machine today, as directed by the inquiry Commission. The seal was opened as directed by the Inquiry Commission and after examination of the said machine by the Inquiry Commission, the said machine has been placed in the same bag and once again sealed by applying the seal of D.F.S.L,

Gandhinagar in presence of Shri Kishor Arvindbhai Sharma, who had brought the seal with him, and in presence of Shri Hitesh N Raval, District Government Pleader, Gandhinagar.

As directed by the Inquiry Commission, I am carrying the said sealed parcel back with me.

I do not have to state anything more than what I have already stated in my Affidavit.

The aforesaid is rough English Translation of the replies tendered by me in Gujarati, and the same is correct.

No further questions are put to the deponent. The cross-examination stands concluded.

*Gandhinagar.
11/02/2021*



*Sd/-
Deponent
Krunal N. Bhukan
P.I., Malaviyanagar Police Station,
Rajkot*

In my presence

*Sd/-
Hitesh Raval
(D.G.P Gandhinagar)*

75. On behalf of the management of Uday Shivanand Hospital though 5(five) persons have tendered Affidavits, as more or less the Affidavits are identical, only following two persons were Cross Examined: -

1. Shri Vishal P Modha
2. Dr. Tejas L Karmata

76. Shri Vishal P Modha has filed Affidavit (8 pages) along with 22 Annexures containing 97 (ninety-seven) pages. In the Affidavit apart from the facts stated therein various submissions have been made as to why the police have wrongly filed FIR and Charge-Sheet.

77. On 5th February, 2021 Shri Vishal P Modha deposed as under:

81

**"BEFORE THE JUSTICE D.A.MEHTA
INQUIRY COMMISSION
AT GANDHINAGAR**

**IN THE MATTER OF INQUIRY IN THE
INCIDENT OF FIRE ON**

**27.11.2020 AT UDAY SIVANAND
HOSPITAL, RAJKOT**

**UNDER THE COMMISSIONS OF
INQUIRY ACT, 1952**

SHRI VISHAL P MODHA

**(Administrator) is administered oath
BY JUSTICE**

D A MEHTA INQUIRY COMMISSION

**CROSS EXAMINATION OF SHRI VISHAL
P MODHA (Administrator) ON 5th
February, 2021**

Upon being questioned I state:

As an Administrator I generally look after the entire functioning of the Hospital so that the services which Hospital provides are rendered smoothly.

For the purpose of recruitment of staff, I guide and direct my HR Head who functions under me.

I further state that for the purchases to be made I sanction the purchases which are required for routine day-to-day working upon the indent being prepared and presented to me by my Store Manager. The normal monetary limit upto which I can exercise powers for purchases is about RS. 25,000/-, and for purchases above the said monetary limit I consult the other members of our Governing Board.

Under the Gokul Life Care Pvt. Ltd we have been running Gokul Hospital at Vidyanagar Main Road as well as on Kuvadva Road. Moreover, there was one Uday Covid Hospital on Rashtriya Shala Road, and one Uday Covid Care Centre on Gondal Road.

After Uday Shivanand Hospital was started Uday Covid Hospital functioning at Rashtriya Shala Road was merged with Uday Shivanand Hospital raising the total bed capacity to 57.

Medical Equipments are purchased on the basis of recommendations made by the Doctors, more particularly intensivists, and after considering the Financial Capability of the company at that point of time.

I further state that the normal life of Patient Monitors would be about 8 to 10 years. We have maintenance contracts for the monitors and the period for servicing depends upon the

company, namely, it could be quarterly or half yearly.

The total capacity of ICU beds at Uday Shivanand Hospital is 11, which is divided into 7 beds in the main ICU and 4 beds on the other side, i.e. opposite to the main ICU.

The ventilators which were in use on the day of the Incident of Fire were comprised of two numbers taken on loan from the Government, i.e. brought from Civil Hospital, while the others were made up of fresh purchases as well as certain units brought from Uday Covid Hospital, Rashtriya Shala Road.

I do not have to state anything more than what I have already stated in my Affidavit.

The aforesaid is rough English Translation of the replies tendered by me in Gujarati, and the same is correct.

No further questions are put to the deponent. The cross-examination stands concluded.

Gandhinagar. 05/02/2021
Sd/-
Deponent
Vishal P. Modha
Administrator

In my presence
Sd/-
Hitesh Raval
(D.G.P Gandhinagar)

78. At the time of Cross Examination Shri Modha has filed written submissions along with various enclosures (50 pages).

79. Dr. Tejas Laxamanbhai Karmata has tendered Affidavit dated 28/01/2021 (9 pages) along with 22 Annexures (90 pages). In the Affidavit apart from the facts stated therein various submissions have been made as to why the police have wrongly filed FIR and Charge- Sheet.

80. On 5th February, 2021 Dr. Tejas Laxmanbhai Karmata deposed as under:

**"BEFORE THE JUSTICE D.A.MEHTA
INQUIRY COMMISSION**

AT GANDHINAGAR

**IN THE MATTER OF INQUIRY IN THE
INCIDENT OF FIRE ON**

**27.11.2020 AT UDAY SIVANAND
HOSPITAL, RAJKOT**

**UNDER THE COMMISSIONS OF
INQUIRY ACT, 1952**

**DR. TEJAS L. KARMATA is administered
oath BY JUSTICE
D A MEHTA INQUIRY COMMISSION
CROSS EXAMINATION OF DR. TEJAS L.
KARMATA ON 5th February, 2021**

Upon being questioned I state:

I completed my MD Medicine in 2006. Thereafter, for about 4 to 6 months I was working as a Professor in C. U. Shah Medical Collage, Surendranagar. Subsequent thereto I completed my fellowship in Critical Care at Jaslok Medical Hospital, Mumbai.

I have been a partner holding share in Gokul Life Care Pvt. Ltd. on and from 2010. Before that I was serving over there on and from 01/02/2008.

We are normally using patient monitors of L & T Company. So far as ventilators are concerned, they are of Hemilton, Dhaman and P & B. Furthermore, the ventilators (5) which were taken on loan from Government were of L & T.

Normal life of ventilators is approximately five years. Though refurnished

ventilators are available in market we have not used any such ventilators in our Hospital.

The normal life of patient monitors would be about 5 years.

The maintenance contracts of Medical Equipments are normally annual.

Whatever literature in the form of manual, which would be available with our Purchase Department, shall be placed on record within period of about five days. I shall also send the pen drive of audio-visual ventilator Training Program- Covid-19 as requested.

The ventilators which were in use in main ICU were comprised of Hemilton and P & B which were brought from Uday Covid Hospital or Gokul Hospital Vidyanagar Main Road. There were Dhaman Ventilators also which were brought from the Company for the purpose of using, but they were not purchased. Even the ventilators which had been taken on loan from Government were used in the ICU.

I will not be able to state as to whether ventilator and humidifier have to be inter connected or not because that involves physics which is not my subject.

However, I do agree that whether air / oxygen is to be supplied to a patient the same cannot be fed in a raw form and have to be necessarily moisturized and supplied at a specified temperature.

It is correct that the tube through which air / oxygen is supplied to a patient carries a thermo sensor so as to determine the volume and the pressure at which the supply is to be regulated.

I do not have to state anything more than what I have already stated in my Affidavit.

No further questions are put to the deponent. The cross-examination stands concluded.

Gandhinagar.
05/02/2021

Sd/-
Deponent
DR. TEJAS L. KARMATA

In my presence
Sd/-
Hitesh Raval
(D.G.P Gandhinagar)

- 81.** At the time of Cross Examination Dr. Tejas Laxmanbhai Karmata has filed written submissions along with various enclosures (50 pages).

- 82.** Both Shri Vishal P. Modha and Dr. Tejas Laxmanbhai Karmata have placed reliance on various provisions of the Epidemic Diseases Act, 1897 and the Regulations issued by Government of Gujarat on 13th March, 2020, as well as the Fire Prevention and Life Safety Measures Act and Regulations.
- 83.** Shri Ileshbhai Valabhai Kher, Chief Fire Officer, Fire and Emergency Services, Rajkot Municipal Corporation has tendered Affidavit dated 16th January, 2021 (4 pages) along with seven Annexures (88 pages). His deposition was recorded on 27th January, 2021 and reads as under:

BEFORE THE JUSTICE D.A.MEHTA
INQUIRY COMMISSION
AT GANDHINAGAR

**IN THE MATTER OF INQUIRY IN THE
INCIDENT OF FIRE ON**

**27.11.2020 AT UDAY SHIVANAND
HOSPITAL, RAJKOT**

**UNDER THE COMMISSIONS OF
INQUIRY ACT, 1952**

**SHRI. I.V. KHER (CHIEF FIRE OFFICER,
RAJKOT) is administered oath BY
JUSTICE D A MEHTA INQUIRY
COMMISSION**

**CROSS EXAMINATION OF SHRI I. V.
KHER (CHIEF FIRE OFFICER, RAJKOT)
ON 27th JANUARY, 2021**

Upon being questioned I state:

I took over as Chief Fire Officer at Rajkot only on 08/09/2020. Before that I was in service in the Fire Services at Jamnagar with effect from 25/11/2002. Upon coming into effect of the Fire safety Act in the State of Gujarat I was deputed as Regional Fire Officer on Loan Service

to Gandhidham with effect from 08/12/2015 and functioned there upto 07/09/2020.

The Statement made by me in paragraph number 4 of page 1 of my Affidavit dated 16/01/2021 regarding Fire Fighting Training having been imparted to four persons is primarily based on the report of Shri. Firoz I. Luwani who is the Station Officer at Mavdi Fire Station Rajkot, and Shri Luwani In turn has made the statement on the basis of the written communication dated 12/09/2020 issued by the Management of Uday Shivananad Covid Hospital. Therefore, I am not in a position to state anything regarding the statement made by Shri. Nilesh kadawala and Shri. Mahesh Kunvariya before the Police Authorities.

I further state that after the Fire Incident on 27/11/2020 I along with my team had checked the functioning of the entire Fire System on 28/11/2020 and the said exercise has been videographed. I undertake to produce a copy of the said video recording on a supplemental Affidavit as soon as possible, but not later than 30/01/2021.

I further state that there is no discrepancy between my averment in second paragraph on page number 2 of my Affidavit regarding intimation about the incident of fire on 27/11/2020 between what I have stated and what Shri. Sanjaybhai Dolubhai Babariya and Mahesh Jashabhai Herbha, both Firemen at Mavdi Fire Station, have stated. This is clear from the report tendered by me to the Municipal Commissioner, Rajkot Municipal Corporation and the same appears as Annexure 4 which is the

communication from the Municipal Commissioner to the Additional Chief Secretary Panchayat, Shri. A. K. Rakesh.

I further state that I have nothing more to add to what I have stated in my Affidavit.

The aforesaid is rough English Translation of the replies tendered by me in Gujarati, and the same is correct.

No further questions are put to the deponent. The cross-examination stands concluded.

Gandhinagar.
27/01/2021

In my presence
Sd/-
Hitesh Raval
(D.G.P Gandhinagar)

Sd/-
Deponent
SHRI I. V. KHER
CHIEF FIRE OFFICER

- 84.** As undertaken by him, he has filed a Supplemental Affidavit dated 27/01/2021 of one page enclosing therewith a pen drive containing video recording of 28/11/2020.

85. Various statements of Shri Ilesh Valabhai Kher have been annexed along with the charge-sheet filed by the Police Authorities. Shri Ilesh Valabhai Kher gave a statement on 29/11/2020 (page number 280). It is stated therein that (i) there is no evacuation plan; (ii) there are no fire signages; (iii) there is no automatic sprinkler system which is required in a building having two or more than two floors; (iv) there is no written plan regarding steps to be taken by the employees in case of fire. In another statement dated 29/11/2020 (page number 283) Shri Ilesh Valabhai Kher has stated that there is only one entry and exit gate on every floor; in response to question as to whether there were sign

boards on every floor he has answered that there is writing on the staircase wall; on being asked about the capacity of overhead and underground water tanks as per rules, he has answered that there is no specific requirement in low rise buildings and the capacity of under-ground tank was 15,000 to 20,000 litres and overhead tank was 11,000 litres. In another statement dated 30/11/2020 (page number 281) after repeating what is stated in the earlier two statements he has stated that capacity of under-ground water tank was stated to be 25,000 litres by the Hospital Management, but during demonstration panchnama the capacity of under-ground tank was found to be 10,000 litres and

overhead tank capacity was 11,000 litres. This is insufficient according to him.

- 86.** When the Fire NOC was granted on 14/09/2020 a checklist of the same date was filled-up. At serial number 14 of the checklist capacity of under-ground tank has been shown at 25,000 litres and the column related to overhead tank capacity has been left blank.
- 87.** Subsequently, after the Fire on 27/11/2020 an inspection was undertaken by the Fire and Emergency Services Departments on 28/11/2020. In the checklist of the said date at Serial number 14 capacity of under-ground tank is shown at 15,000 litres while capacity of overhead tank is shown at 11,000 litres.

88. However, when the Hospital staff was examined and their statement were recorded by Police Authorities the following facts emerged:

89. One Shri Kamleshbhai Vitthalbhai Parmar has stated on 02nd December, 2020 (page number 278) that he is serving as Senior Executive since 2019 with Gokul Hospital; he is in charge of store management; duty hours are from morning 8 o'clock to 8 o'clock at night. That the under-ground water tank of the hospital has a capacity of 2500 litres and there are five tanks overhead; as and when the overhead tank gets empty the water from under-ground tank is carried up by automatic system. That the daily requirement is about five to

six water tankers, therefore, driver of Gokul Hospital, Shri Vanrajbhai Vank is informed telephonically and he delivers water through tanker which is transferred to the under-ground tank. Thereafter he has stated the modality of billing and payment for the water tanker.

- 90.** Statement of Shri Vanrajbhai Laxmanbhai Vank has been recorded on 02/12/2020 (page number 279). It is stated by him that he is driving water tanker since 2013 of Gokul Hospital at Vidyanagar Main road; since commencement of Uday Shivanand Covid Hospital he is going to deliver water through tanker over there. He has stated how he fills up the tanker after receiving phone call from Shri Kamleshbhai Parmar. It is further stated that the Hospital owns

one TATA (Jenan model) since 2013 which has a tank with 2500 litter capacity fitted on the rear-side. Daily he delivers water through this tanker about 5 to 6 times.

- 91.** Therefore, it is apparent that a serious deficiency exists in recording the data regarding capacity of under-ground and overhead water tanks. The Fire brigade personnel merely rely on what someone from Hospital Management tells them; even the name of the person who gives the information is not noted. In such circumstances, if the Fire brigade is not able to control the fire at initial stages and if more water is to be drawn the same will not be possible, considering the fact that firstly, the actual capacity is not known, and secondly, the capacity may be

insufficient as accepted by the Chief Fire Officer Shri Ileshbhai Valabhai Kher in his statement of 30/11/2020.

- 92.** Shri Manojkumar Jayantilal Hansaliya has tendered Affidavit dated 13th January, 2021 (3 pages). Along with the Affidavit he has filed the following Annexures:

| Sr. No. | Date | Contents | Page No. |
|----------------|-------------|---|-----------------|
| 1 | 04-12-2020 | Investigation Report of Electrical Inspector, Rajkot | 4 |
| 2 | 27-11-2020 | Statement of Eye witness | 5 to 6 |
| 3 | 28-11-2020 | Statement of Contractor | 7 to 8 |
| 4 | 11-09-2020 | Performa-15 Meter sealing Report of PGVCL | 9 |
| 5 | 11-09-2020 | Checking Sheet of PGVCL | 10 |
| 6 | | Electrical Contractor Test Report | 11 |
| 7 | 17-09-2020 | Meter reading Sheet of PGVCL | 12 |
| 8 | 23-09-2020 | Meter reading Sheet of PGVCL | 13 |
| 9 | 05-11-2020 | Regional Forensic Science Laboratory, Rajkot Report and additional papers | 14 to 18 |

93. The last two paragraphs on page 2 of his Affidavit read as under:

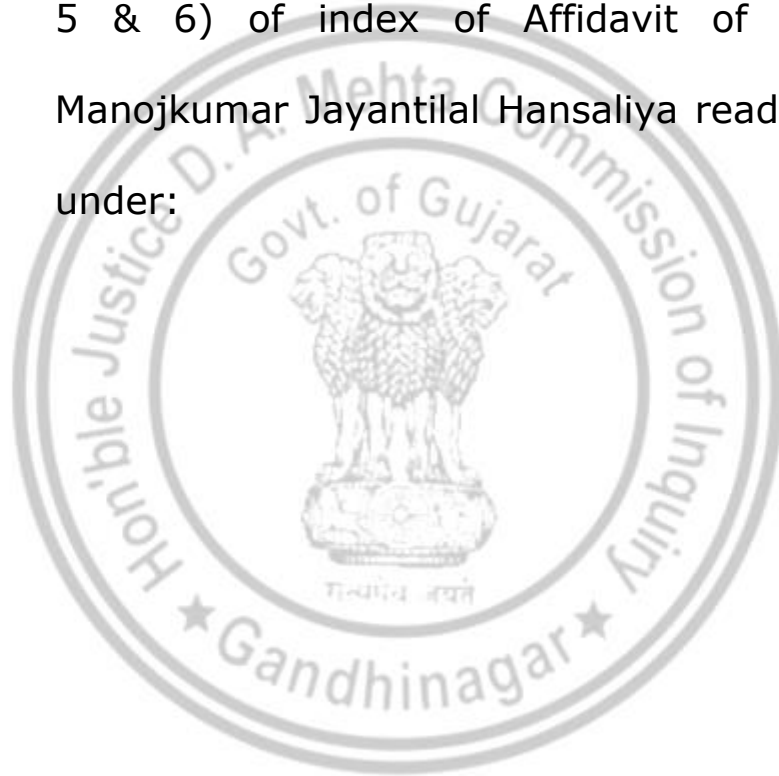
"By observing of CCTV footage, It seems that fire broke out at 00:30 hrs. away from wall in ICU unit near bed. After fire incident the electrical supply was Switched off, It seems that due to fire and heat in ICU unit internal wiring was burnt that led to tripping of MCB and power supply in ICU unit was cut off. As per eye witness, fire started breaking out form the medical equipment kept near bed no. 103 (emphasis supplied).

So It can be said that this fire occurred in ICU unit is not due to Electric short-circuit of wiring but cause of fire may be defective Medical Instrument / equipment or due to any other reason at that time".

The Investigation Report dated 04/12/2020, which is in Gujarati, tendered

by Shri Manojkumar Jayantilal Hansaliya has recorded the same finding.

- 94.** The aforesaid statement of eye witness as referred to at serial no. two (page number 5 & 6) of index of Affidavit of Shri Manojkumar Jayantilal Hansaliya reads as under:



જાજરે એનાલરું તિખેદળ

તા. 27/11/2020
ઉદ્દેશ શિખાતેદ
કોપિસ રાજકોટ
રાજકોટ

આજ તા. 27/11/2020 ના રોજ કું શ્રી કુપરીયા મહેરાલાય મગાનલાય, ઉમર 35 વર્ષ રહેવાસી આતંદ લંગલા ચોક, સ્વામીનારાયણ ચોક, રાજકોટ, ધંધો: નર્સિંગ રાજકોટ ઉદ્દેશ શિખાતેદ કોપિસ ફોરિપરલ, આતંદ લંગલા ચોક, રાજકોટ. તા. 27/11/2020 ના રોજ વહેલી સવાર (સ્થાનિક આસરે 12:30 કલાકે), I.C.U. વોર્ડમાં લાગેલ આગ અંગે પિયુત નિરિસડાલય તથા P.C.V. C.L. ના અધિકારીઓ ફોર રૂબરૂ પૂછના કું નિચે મુજબનું તિખેદળ લખાયું છે.

ત્રીકે ફરજ કું શિખાતેદ ઉદ્દેશ કોપિસ ફોરિપરલ રાજકોટમાં નર્સિંગ રાજકોટ રોજ કું રાજકોટ 20:00 કલાકથી સવારે 02 સુધીની ફરજ પર રાજકોટ. આ દિવસે મારી ફરજ I.C.U. વોર્ડમાં રાજકોટ. આ વોર્ડમાં કુલ 07 દર્દીઓ આરખાર રૂબરૂ રાજકોટ. આ લઘુ દર્દીઓ વોજલેરર પર રાજકોટ. કું ફરજ પર રાજકોટ તારે રાજકોટ આસરે 12:15 કલાક (તા. 27/11/2020) ના આરખાર લેડ નં. 103 જે ધમગા વેરીલેરરમાં આમાલ ઘડાકો વખેલ અને આગ લાગેલ. આવી તેનીકે અસરકારક રાજકોટ સર્કિટ (ઓકિસજન મારેલી) માં આગ લાગી ગઇ. આવી પેરાલેરુ લાગેલ મારક સળગા માં લેલેકેરથી આગ જુગવવાનો પુપત કરેલ ને ફરજાલજ વોજલેરરમાં લાગે ઘડાકો વખા લાજુલા પડેલ તથા એવ જુગવને આગ પુસરી ગયેલ. ICU વોર્ડની લાઇટો લંધ વખેલ આ વોર્ડમાટે લગાડેલ MCB રૂપ વખા આમા વોર્ડમાં પાનુ લંધ વખેલ રાજકોટ.

રાજકોટ પાના જ્યોતિ મેઇકની ધમગાની સર્કિટ નીચે મુજબ છે. ઓકિસજન અને એરવાઇવનો ઇનલેટ ધમગા ઇકવિપમેન્ટમાં આપવામાં આપેલ છે. આમાની એક આઈલેટ કે જેમા ઓકિસજન રોજ છે તે રૂપાકિસ્ટ્રાઇવરમાં આપવામાં આપે છે. જેમા 120 Watt જે ફિર રોજ છે. અને તેનો આગા લગાવી 220 વોલ્ટુ પાપર સાલેલ આપેલ રાજકોટ. રૂપાકિસ્ટ્રાઇવરમાંની તિલકનો પી.બી.સી. (ફલેક્ટીલાલ) તળી કે જેમાંની તિલકનો એક સર્કિટ પાપર તેમાંની પસાર વખેલ દર્દીને લગાડવામાં આપના ઓકિસજન મારક સાપે લગાડેલો રોજ છે. ઓકિસજન મારક પરેલો સોસર મારેનો વાપર વખા વોર્ડેલ રોજ છે. અને આ રોને દર્દીને વોજલેરર આપવાની વખાવખા વખા છે.

લગાવ વખને જે ફલેક્ટીલાલ પી.બી.સી. પાઇપ ફોર દર્દીને ઓકિસજન આપવામાં આપેલ રાજકોટ. તારે તેમાંની પસાર વખા સર્કિટ વાપરમાં ગરમ વખાવી કે સપક વખાની ફલેક્ટીલાલ પી.બી.સી.


Km...


(પાના નંબર 2 ઉપર)

પાલિકા અને નીચી સ્તરે જોડાયેલા માર્ગ લાભી બનેલા છે. નીચે
 સીમા (નું) પાલિકાના પાસે અને સીમામાંથી લેવા જણાવેલ
 છે. જેના સીમા સીમા પાસેથી (નું) છે, અને તે સીમામાં
 છે.


સીમા સીમામાંથી લેવા જે સીમા સીમામાંથી લેવા સીમા
 સીમામાંથી લેવા સીમા સીમા સીમા સીમા સીમા સીમા સીમા
 સીમા સીમા સીમા સીમા સીમા સીમા સીમા સીમા સીમા સીમા

§ સીમા સીમા સીમા સીમા સીમા સીમા સીમા સીમા સીમા સીમા
 સીમા સીમા સીમા સીમા સીમા સીમા સીમા સીમા સીમા સીમા


 (M.J. Handal)
 E. J. Rajat

2)  (K.S. Raval)
 Asstt. Elect. Insp.
 Rajkot.

3) J. U. Shah
 D.O. UARD BY Engr. P. Patel
 Paver

4) 
 A.E.F.
 Rajkot.

X Kamyab
 (સીમા સીમા સીમા સીમા સીમા સીમા સીમા સીમા સીમા સીમા)
 સીમા સીમા સીમા સીમા સીમા સીમા સીમા સીમા સીમા સીમા
 "સીમા"
 સીમા સીમા, સીમા સીમા.
 સીમા સીમા.
 સીમા સીમા સીમા
 સીમા સીમા
 સીમા સીમા સીમા
 મ- 6353916558

95. Summons were issued to Shri Manojkumar Jayantilal Hansaliya to appear for Cross-Examination on 27th January, 2021. However, he sent an email, and considering the same he was issued a fresh communication to appear on 28th January, 2021. Shri Manojkumar Jayantilal Hansaliya, Electrical Inspector, Rajkot gave the following deposition on 28th January, 2021:

BEFORE THE JUSTICE D.A.MEHTA
INQUIRY COMMISSION

AT GANDHINAGAR

***IN THE MATTER OF INQUIRY IN THE
INCIDENT OF FIRE ON***

**27.11.2020 AT UDAY SIVANAND
HOSPITAL, RAJKOT**

***UNDER THE COMMISSIONS OF
INQUIRY ACT, 1952***

**SHRI MANOJKUMAR JAYANTILAL
HANSALIYA (ELECTRICAL INSPECTOR)
is administered oath BY JUSTICE D A
MEHTA INQUIRY COMMISSION**

**CROSS EXAMINATION OF SHRI
MANOJKUMAR JAYANTILAL HANSALIYA
(ELECTRICAL INSPECTOR)
ON 28th JANUARY, 2021**

Upon being questioned I state:

I have already recorded in my Inspection Report dated 04/12/2020 that the incident of Fire did not take place due to any Short-circuit in the wiring and the usage was within the limit of sanctioned load. However, the fire seems to have emanated from one of the Medical Instrument / equipment which could be a defective Instrument / equipment.

I have recorded the statement of the Eye Witness Shri. Kuvariya Maheshbhai Maganbhai, a member of the Nursing Staff at around 10:30 am on 27/11/2020. The said statement has been enclosed at Annexure 2 page no 5 to 6. The said statement was recorded in presence of the team members of the Electrical Inspector Directorate Rajkot as well as in presence of Shri J. U. Bhatt Deputy Engineer PGVCL who was present at the time.

I further state that I had informed the Police Authorities about the said statement on 29/11/2020. Upon being shown the copy of my statement appearing at page number 397 (annexed with the charge-sheet) I state that though the said copy does not bear any date, I have personally made endorsement in the copy available with me in my file which I have shown. I shall file a Zerox copy of the same during course of the day.

I further state that it is possible that the Medical Equipment/ instrument comprised of ventilator and humidifier unit may possibly have defective wiring inside resulting in sparking leading to the oxygen passing through the humidifier catching Fire resulting in a blast as described in the statement of the Eye Witness. I also state that having seen other such units in the ICU room it would be correct to state that though ventilator and humidifier appear to be separate equipments they function as one unit and not as independent units. The humidifier has an endorsement on the same which reads "hot surface upto 75 degree centigrade". This is apparent also from the report of the FSL Authority. I cannot say with surety that this must have happened but the possibility cannot be ruled out. It is also possible that continuous use of the unit may have resulted in more heat being generated in the internal wiring of the humidifier resulting in sparking therein.

Considering the overall situation of the wiring I once again reiterate that there was no short-circuit in the wiring or any of the circuit breakers.

I further state that I have nothing more to add to what is stated in my Affidavit dated 13/01/2021.

The aforesaid is rough English Translation of the replies tendered by me in Gujarati, and the same is correct.

No further questions are put to the deponent. The cross-examination stands concluded.

Gandhinagar.
28/01/2021

Sd/-
Deponent
SHRI. M. J. HANSALIYA
ELECTRICAL INSPECTOR

In my presence
Sd/-
Hitesh Raval
(D.G.P Gandhinagar)

- 96.** Shri Manojkumar Jayantilal Hansaliya has filed a communication dated 28/01/2021 along with the enclosed letter dated 29/11/2020, filed by Shri Manojkumar Jayantilal Hansaliya with the Police

informing the Police Authorities about the statement of the eye witness.

- 97.** The eye witness who is referred to in the Affidavit dated 13th January, 2021 of Shri Manojkumar Jayantilal Hansaliya and Investigation Report dated 04/12/2020 is Shri Maheshbhai Maganbhai Kunvariya. After his statement was recorded on 27/11/2020 by the team of Electrical Inspector, Shri Maheshbhai Maanbhai Kunvariya gave a statement on 18/12/2020 before Police Authorities in the said statement also he has confirmed that the Fire started between bed numbers 103 and 104 of the ICU ward followed by a blast in the ventilator machine.

98. Subsequent thereto This Commission visited Rajkot once again on 30/01/2021. Statements of following five persons were recorded on 30/01/2021 at Rajkot Circuit-house.

1. Shri Maheshbahi Maganbhai Kunvariya
(nursing staff)
2. Shri Gauravbhai Dilipbhai Solanki (Clinical Assistant)
3. Shri Nileshbhai Vallabhbhai Kodavala
(Nursing Supervisor)
4. Ms. Ekta Parbatbhai Dangar (nursing staff)
5. Ms. Binal Hasmukhbhai Chauhan (nursing staff)

99. Out of the aforesaid five persons statements of Shri Maheshbhai Maganbhai Kunvariya and Shri Gauravbhai Dilipbhai Solanki were recorded by This

Commission; while statements of the remaining three persons were recorded by Shri Mayur Chavda, Superintendent of Police, Gandhinagar as authorized by This Commission.

- 100.** The statement of Shri Gauravbhai Dilipbhai Solanki recorded on 30/01/2021 by This Commission at Rajkot Circuit-House assumes importance in light of what is stated in paragraph number 3 of the said deposition. It is stated that approximately during January- February, 2020 when he was serving at Gokul Hospital, Kuvadva Road the agency which had installed Fire-fighting equipment at that time had shown the use of fire extinguisher by burning a heap of paper and card boards.

110

101. As Dr. Gaurav Solanki was on night duty at the time of the Incident of Fire, he has been able to specifically state:

- Patients in bed numbers 101 and 106 were on HNFC.
- Patients in bed numbers 102, 103, 104 and 107 were on ventilator.
- While patient on bed number 105 was alternatively on Bi Pap and HNFC.

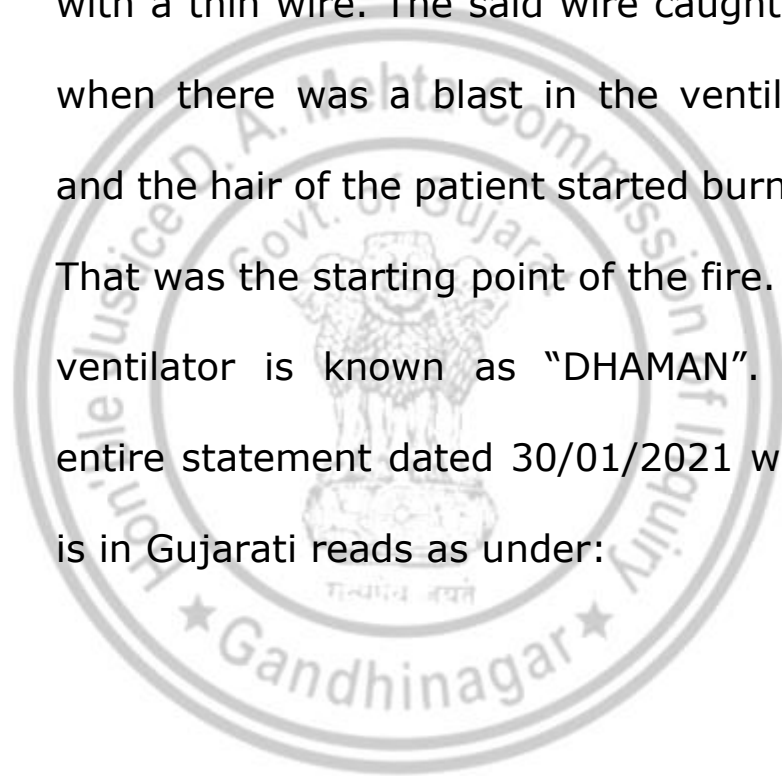
102. He is not in a position to state as to which of the staff members who were on duty with him on the night of the Incident of Fire in ICU ward were actually trained in Fire-fighting.

103. None of the other Nursing Staff or Medical Staff who were on duty at the time of Incident of Fire on 27/11/2020 have been

able to assist This Commission in ascertainment of facts.

104. In the statement dated 30/01/2021 Shri Maheshbhai Magnbhai Kunvariya has accepted that he had given two statements, on 27/11/2020 before the team of Electrical Inspector, and on 18/12/2020 before the police. He has further confirmed that there was a blast in the ventilator near bed number 103 and the starting point of Fire was high flow circuit in oxygen supply pipe; he has confirmed that he tried to douse the fire of the patient's oxygen mask by using a blanket. However, according to him there was a second blast in the ventilator resulting in the nearby curtains catching fire causing the fire to spread.

105. Furthermore, he has categorically stated that the ventilator and humidifier are both connected and the pipe through which oxygen and air are supplied is attached with a thin wire. The said wire caught fire when there was a blast in the ventilator and the hair of the patient started burning. That was the starting point of the fire. The ventilator is known as "DHAMAN". The entire statement dated 30/01/2021 which is in Gujarati reads as under:



તા-૩૦/૦૨/૨૦૨૨ (કમ્પ-રાજકોટ સર્કોટ ઇલેક)

આરૂ નામ મહાસાભાઈ મગાનભાઈ કુંવરીયા ઉ.વ.
 ઉપ ઘંઠી નોકરી રહે, નવલનગર, સેરીનં-૧૦, શ્રીબ્ર મહાન
 ભાડાના ઝકાળમાં, રાજકોટ સિદ્ધ મુળ પતન - કવેદરા ગામ,
 કેસોદ જિલ્લો જુલાઈ ઓ.નં. ૬૦૦૦૫૨૭૮૬૫.

વંદુઓ પ્રહવાશી લખાણુ કુ કે હું ઉપરના ઉદાહરણ
 સરનામી રહું છું. અને પાલમાં ભવિષ્યનાર ગોફલ ઇરજાટલમાં
 ન સોજા રજાકુ ભરીકે નોકરી કરું છું.

શો પરીકાળ છો કે મી તા-૧૬/૧૨/૨૦૨૦ ના રોજ
 પોલીસ કરદા નિવેદન આપેલ છે. તદઉપરાંત તા-૨૭/૧૨/૨૦૨૦
 ના રોજ મી ઇલેક્ટ્રીકલ ઇન્સપેક્ટરની યીત મળદા પલ નિવેદન
 આપેલ છે. તા-૧૬/૧૨/૨૦૨૦ ના રોજ પોલીસ કરદા આપેલ
 નિવેદન વખતે આગાઉના તા-૨૭/૧૨/૨૦૨૦ ના નિવેદન સંગ
 કોઈ વાન થયેલ નથી.

શો પરીકાળ ખરી છો કે, દર્દીનં. ૧૦૩ ના બેંક પાસે
 જે વેન્ડી લેટર હવું તેમાં ઘડાકો થયેલ અને શોફ્ટસીલ્ક -
 સરભાષ વી ઇથકુભારે સર્કીટમાં પ્રથમ આગ લાગેલ.

વધુમાં શો પરીકાળ ખરી છો કે, મી દર્દીના શોફ્ટસીલ્ક
 માસ્ટરની આગ બુલાવવા માટે સર્વ પ્રથમ કોલેક્ટર થી સોભવવાનો
 પ્રયત્ન કરેલો.

શો પરીકાળ પલ ખરી છો કે, વેન્ડી લેટરમાં લાભ
 ઘડાકો થયેલ તેના કારણે બાજુના પડદા સહગયા તેથી આગ
 પ્રસરી ગઈ.

વધુમાં પ્રહવાશી લખાણુ કુ કે, વેન્ડી લેટર અને
 ઇયુઆઈ ફાયર બળ્લ કન્ટેનર હોય છે અને જે શોફ્ટસીલ્ક -
 અને સર સરભાષ થાય. તે પાઈપની નીકે જીલા વાયર કોલેક્ટર
 હોય છે. વેન્ડી લેટરમાં ઘડાકો થયેલ તે વખતે તે વાયર
 સળગેલ. અને પેસમટ ના વાળ પલો મળવાવા લાગેલાં સોરેલે.

(P.F.O)

લોકોની આગળ સુરક્ષા પહેલ. વેન્ડીસેટર ધમલા તરીકે
ઓળખાય છે.

મને કુપર કુઈયોગ ની ટ્રેનીંગ ગ્રાહ-યાત્રી ક્ષેત્રો
પરિણે જ્યાં હું ગોફલ ઇન્સ્ટીટ્યુટ (ઉદ્ય) વિદ્યાનગર ખાતે ઇનો
વ્યારે મળેલો.

એલકીકા ખરી હોઈ. તા. ૨૭/૧૧/૨૦૨૦ ના નિવેદન
માં મેં જણાવેલ કે મેં કુપર કુઈયોગ વચ્ચે થી આગ હોતોવા
નો પ્રયત્ન કરેલ. જે કુપર કુઈયોગ પર ચીકુ વાઈ ની બધા
થી હું બાવેલો.

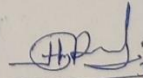
તા. ૧૮/૧૨/૨૦૨૦ ના રોજ પોલીસ સમક્ષ નિવેદન
આપેલ તેમાં મેં જણાવેલ કે મને કુપર કુઈયોગ ની ટ્રેનીંગ મળેલ
વધા તે સેટના મારે કલેક્ટ કરી, ઉદ્ય સ્થાનેદમાં કાઢ્યા પછી
કોઈ ટ્રેનીંગ મળેલ વધા.

વધુમાં જણાવું છુંકે, જે હાલકે હોઈ પાઈપ ICU વાઈ
ની બધા રીફમાંથી ખોલેલ તે કોઈ ખોલ તે મને ખબર વધા,
કારણ કે હું વાઈમાં સંદર હતો. પણ તેમાં પાઈપ ચાલુ થયેલ
વધુ તે ખબર છે.

વધુમાં જણાવું છુંકે. જાડે નં. ૧૦૩ ની કંઈ
જાડું વેન્ડીસેટર હું તે હું સ્થળ ઉપર જઈને તો દિખાડી સુંકું.
હું સત્યાય ગોફલ ઇન્સ્ટીટ્યુટ વિદ્યાનગર ખાતે સુરજ જીવેલું.
જ્યાં કોલેક્ટ ઇન્સ્ટીટ્યુટ શરૂ કરી તે પરિણે સુરજ જીવેલો હતો.

સોલ મારી ઉપર જીવેલની એકીકા મારા બહાવ્યા
જીવેલની બરાબર અને ખરી હોઈ આ બધે મારી સહી કરેલુંકે.

K. Mohesha = 30/11/2021


30/11/2021
(ફોન 200. 2100)
વેલના મારમરી મળેલ
ગાંધીનગર

106. In the aforesaid statement Shri Maheshbhai Maganbhai Kunvariya stated, upon being asked, that if it was possible to go to the site he would be in a position to point out on which side of the bed number 103 was the ventilator located.

107. Therefore, This Commission, along with the team of the Commission and Shri Maheshbhai Maganbhai Kunvariya undertook a second visit of the site of fire, namely ICU ward of Uday Shivannad Hospital, Anand Bungalow Chowk, Rajkot on 30/01/2021.

108. Shri Maheshbhai Maganbhai Kunvariya, after pointing out the exact location of the burnt / damaged ventilator and humidifier,

116

demonstrated from an undamaged ventilator and humidifier near bed number 101 the exact functioning as well as the sequence described by him in his three statements of 27/11/2020, 18/12/2020 and 30/01/2021.

109. Shri Maheshbhai Maganbhai Kunvariya pointed out:

(i) How the ventilator and humidifier are connected and used;

(ii) What actually happened at the time of Incident of Fire on 27/11/2020.

110. It was pointed out that first spark occurred in thermo sensor located in hard flexible transparent pipe which is attached to the face mask / HFNC (High Flow Nasal Cannula) of the patient in bed number 103

117

resulting in the pipe, which was carrying oxygen to the patient catching flash fire. The consequence was, the patient's hair caught fire.

111. Shri Maheshbhai Maganbhai Kunvariya tried to put out the fire with blanket but did not succeed. There was a second blast in the machine resulting in spreading of Fire.

112. The aforesaid version of Shri Maheshbhai Maganbhai Kunvariya is believable considering the fact that he has been consistent in all the three statements, and the undersigned having observed his confidence and demeanour, in absence of any other contrary evidence by anyone else; nor is there any other plausible circumstance. His demonstration inspires

confidence considering that he has more than twelve years of experience as nursing staff. He is the only eye witness. Furthermore, his version is also consistent with video footage of camera number 7 located in the ICU ward above the inner side of entry door.



113. As per the facts available on record (page number 134 of the Charge Sheet filed by the police) the emergency exit door was closed and blocked. This fact has been verified by This Commission during personal inspection visit on 12/01/2021.

114. In this regard the explanation tendered is that extra ventilators and other medical equipment was placed across the door as the said ventilators were required for replacement/ substitution. It was further stated that the door was closed to maintain temperature and ensure that air borne virus, if any, does not escape outside.

115. There can be no issue with the door being closed simplicitor. However, the door

120

cannot be blocked by keeping anything, even ventilators (which may be on castor wheels), because the door has to be easily accessible and openable by anyone. The ICU is not a store room and spare or substitute machines cannot be kept there. They have to be located outside ICU.

116. A contention was raised that no charges were collected from the relatives of the deceased patients, even though there were outstanding dues to which the hospital was entitled.

117. Whether charges were not collected or waived after the event had taken place is not a relevant factor, if there was negligent conduct prior to the happening of the Incident of Fire. The terms of reference of

121

This Commission are not to determine/ inquire about what happened, or what was done once the incident has taken place.

118. In the Affidavit of Dr. Tejas Laxmanbhai Karmata emphasis has been placed on the fact that out of 617 patients who had been admitted 588 patients had been cured, and they are doctors who are experts of human body/ physiology. Therefore, filing FIR against doctors is unconstitutional. That doctors should not be made responsible for the Incident of fire because their duty is to take care of the patients.

119. It may be true that being a doctor they have expertise regarding human body and cure a disease after correctly diagnosing the same. But it can't be a universal

122

proposition applicable in all cases and situations that a doctor can't be held responsible for an incident which takes place in the hospital; more so, when same persons are involved in/ In - Charge of/ responsible for management of the hospital. If one enjoys fruits/profits earned from running the hospital, such a person cannot say it was not my job and I can't be held responsible. If a person has acted as a doctor as well as an owner of the hospital, for any incident which happens in the hospital, he is responsible as the owner. That responsibility/ liability does not disappear because he is a doctor.

- 120.** Judicial Cognizance can be taken of the fact that patients are charged both for clinical / medical / surgical services and for room /

123

bed occupancy and other attendant services. Even if there is a package and an all-inclusive charge yet, the liability to adhere to or abide by all laws, rules and regulations cannot be unfastened / escaped from / shrugged away on a specious plea of being a doctor, whatsoever the branch or speciality.

- 121.** Even otherwise, taking care of a patient is the primary responsibility of the doctor. It is not open to the doctor to say that the doctor is only responsible for curing / treating the patient. This is not a case of a dispensary, a clinic or an O.P.D., where a patient who is self-ambulatory comes, consults the doctor and walks out with a prescription or with medicines.

122. Here, the patients in the ICU are not self-ambulatory. They have to be moved either on a stretcher or a bed having castor wheels. Furthermore, most of the patients in the ICU are connected with one or more than one medical equipment like patient monitor, ventilator etc. In case of some patients there may be drips also.

123. Therefore, in such cases when one talks of taking care of the patients, such care includes not only the medical part of the treatment, but taking care of the other needs of the patient, like collection of urine, etc. and disposing of the same. May be the doctor himself may not undertake this service, but as a person, as an administrator who is in charge of the

125

management, i.e. running of the hospital it becomes his duty and responsibility.

124. In these circumstances, at the cost of repetition, it is required to be stated that merely stating that all arrangements have been made and thereafter it is not the responsibility of the doctor is not acceptable.

125. As already recorded hereinbefore, the starting point of Fire was the sparking which took place in the thermo-sensor of the oxygen pipe proceeding from the ventilator / humidifier to the patient's mask / HNFC. In context of this, the statement of Dr. Karmata during his deposition on 05/02/2021 that "DHAMAN" Ventilators *"were brought from the*

company for the purpose of using, but they were not purchased” becomes important.

- 126.** Whether the ownership of the ventilator had been transferred or not becomes irrelevant. Because, on the one hand, such ventilators were being actually used in the ICU for treating the patients, and such patients were being charged for the treatment, whether they were private patients or patients falling within the quota of Rajkot Municipal Corporation. On the other hand, the Management of the Hospital, having not purchased the ventilators, would not be in a position to take any action against the Manufacturer, even if a particular piece of equipment or any of its component, was found to be defective or of sub-standard quality, in

127

absence of any legal binding contract as to warranty of the product. Therefore, in any situation the mishap which would take place by using such a piece of medical equipment would ultimately rest on the shoulders of the Management of the Hospital.

127. Hence, apart from the various defects / deficiencies / violations pointed out in the Report of the Chief Fire Officer, as well as the charge-sheet filed by the Police Authorities the Management of Uday Shivanand Hospital was definitely negligent for the reasons set out hereinbefore.

128. Before making any recommendation, it is necessary to take note of the fact that there are major serious deficiencies/defects in so far as the functioning of the State Government is concerned. Only if a holistic approach is adopted will it be possible to really take care of the issues which have been thrown up during the course of the inquiries in the incidents of fire at Uday Shivanand Hospital, Rajkot and Shrey Hospital, Ahmedabad.

129. The first and the foremost is the policy of the State Government to hire personnel by the mode of outsourcing. The State Government needs to understand that in

every sphere of Governance outsourcing of employees is not only detrimental to an effective and efficient Government, but it creates a situation, a culture which yields negative result by way of outright poor performance. The reason is not far to seek. A person who has no direct interaction with the employer has no loyalty either by way of output or by way of attendance. Infact, both are interlinked. Absence of regular attendance directly impacts the output.

- 130.** Furthermore, with an outsourced employee the quality of service is directly affected. A person coming through a contractor is going to be a person who is at the lowest rung of the number of persons available in the job market in so far as the qualification is concerned. Only those persons who have

130

no acceptance anywhere else go to the contractor for being employed through that contractor. It is well known fact that the contractors who supply staff to various government departments have obtained the contract by making bids, and the lowest bidder is accepted. Therefore, such contractor is bound to keep the wages at the bare minimum level to ensure that the contractor himself earns by virtue of the contract having been assigned to him.

- 131.** The State Government needs to appreciate that every decision cannot be formed and arrived at by applying the touchstone of revenue. Only the cost aspect cannot be the sole consideration before arriving at a decision, formulating a policy. The Finance Department cannot be permitted to

131

assume a larger-than-life role in a Government. The cardinal principle that a government is nothing else but a decision-making body which acts collectively, cannot be lost sight of. The assignment and distribution of work amongst different ministers is only for the sake of administrative exigency and convenience. A decision by one or the other minister, including the Chief Minister, is ultimately a collective decision which binds all the Ministers, who constitute the Government in equal measure. Therefore, at the cost of repetition, it requires to be stated that every policy/decision cannot be taken or arrived at by only keeping in mind the revenue impact.

132. The State Government has to realise that it is required to govern the State, i.e. govern the State effectively, and not make a show of governing. The welfare of the entire population of the State has to be paramount consideration. The approach cannot be contrary by first of all considering the revenue impact, and then modulate the requirement of welfare of the people of the State.

133. A serious relook at the policy of Regularization of Unauthorized Construction is required to be undertaken. More specifically in case of Nursing homes and/ or hospitals which would include maternity homes and other specialized medical and surgical care units. Otherwise, the state Government would be failing in

its duty to take care of life of its citizens. Right to Life is fundamental right which requires to be protected by the State. The State needs to understand that there cannot be a blanket policy for Regularization of Unauthorized Construction only on the basis of revenue earned, by whatever name it may be called, whether Regularization fees or Fine or Impact fees, etc. and this would apply not only to Nursing homes and Hospitals but also in case of schools, including all educational institutions like coaching classes, etc. If unauthorized construction in and on the premises of Shrey Hospital would not have been regularized, the fatalities which took place on the night of

134

5- 6 August, 2020 could have been avoided.

134. Fire and Emergency Services fall within a sector which has to take priority. The personnel manning such a force like Fire and Emergency Services have to be available round the clock, i.e. 24x7 for 365 days of the year; and it is not only for a single year, but is required year after year without any break. Therefore, not only there should be adequate number of workforce, but it has to be in readiness, prepared round the clock. Hence, the minimum requirement is that such a force is a uniform force, namely a disciplined force. Such a force cannot be dependent upon or supplemented by persons who

135

have been outsourced through a contractor.

135. The Provisions of The Fire Prevention and Life Safety Measures Act, 2013 as well as the rules framed thereunder, and the regulations, are primarily supposed to be implemented through the mode of outsourcing. The concept of privatization has to be restricted and made applicable only in sectors, which may properly be described as commercial. One can understand that it is not the business of the government to be in business and commerce. A government is not meant for conducting the business or trading in goods.

136. However, this concept of not being in business cannot be stretched to shirk its responsibility of governing the State by ensuring the health and wellbeing of the public at large. Public health is primarily a State subject, and therefore the State has to be alive and conscious to the fact that all things connected with public health have to be dealt with conscientiously and not on the basis of revenue impact.

137. During the course of inquiry, it has come to notice that except for the areas falling under Municipal Corporations there is no statutory provision which governs the registration of nursing homes, hospitals, sanatoria, etc. Even in the city of Ahmedabad the provisions of the Gujarat Nursing Homes Registration Act, 1949 are

137

not applied properly/correctly. The provisions require that every nursing home has to apply for Registration every year, and the Registration granted is valid till 31st March of the succeeding year.

138. Upon verification of the documents relating to the registration of Shrey Hospital, Ahmedabad it was found that Registration has been granted for a period of 5 (five) years. When the person, from Ahmedabad Municipal Corporation (AMC), who is authorized and responsible for granting Registration was called upon to explain the basis for granting Registration for a period of 5 (five) years, he relied on a Resolution, made by the Standing Committee, to contend that it was on basis of this Resolution that the Registration was

138

granted for a period of 5 (five) years. However, when it was pointed out to him that the said Resolution had merely fixed the rates to be charged for granting Registration, and that too on a yearly basis, he had no valid answer for having adopted such a practice since 2012.

- 139.** In so far as Rajkot Municipal Corporation is concerned the position is slightly different. Though, there also registration is being granted for a period of five years, the same is on the basis of a note put up before the Municipal Commissioner which has been duly signed by him. The fees for registration are being collected by framing alleged byelaws under provisions of Bombay Provincial Municipal Corporation Act, and strangely, the same have been

139

approved by the Urban Development Department.

- 140.** In so far as the rural area is concerned, the position is still worse. There is no Register maintained, nor any Registration granted to any clinic or nursing home. There is only one Circular issued by The Director, Health which requires maintaining the details of medical persons who are either running a clinic or a nursing home or a maternity home, etc. only for the purpose of ascertaining that there are no quacks/bogus doctors practicing medicine. Even those who are registered with The Gujarat Medical Council are not amenable to any regulatory provisions.

141. In light of this position the Commissioner, Health Services/Medical Services was called upon to furnish complete details as to the area in the State of Gujarat in which GNHR Act is applicable, and if the same is not applicable in certain areas of the State, how does the State determine the number of nursing homes, hospitals, etc. functioning in the State of Gujarat.

142. The Additional Director, Medical Services has categorically confirmed that GNHR Act applies only in the 6 (six) Municipal Corporation Areas and is implemented by the local supervising authority. Therefore, all nursing homes, hospitals, etc. fall under Urban Development Department.

143. If the Government does not have data of the total number of nursing homes, hospitals, etc. functioning in the State of Gujarat it is inconceivable that the Government would be in a position to check as to whether any Fire Prevention and Life Safety Measures are in place in such nursing homes, hospitals, etc.

144. Hence, the first step that the Government requires to take is to ensure that all clinics, nursing homes, by whatever named called, are brought under one common legislation and under one department. Whether that department should be Urban Development Department or not is a moot question. When the State already has a Commissionerate of Health why should there be such a dichotomy regarding

Health Services only on the basis of Geographical Location: Urban or Rural. More so, because even in Urban Areas application of the provisions of GNHR Act is not only not uniform, but outright contrary to the provisions of the GNHR Act. This is a serious flaw which requires immediate remedial action.

- 145.** The best way forward in such a situation is that the State Government which had already proposed a bill in 2019, namely The Gujarat Clinical Establishments (Registration and Regulation) Bill, 2019, must go ahead and ensure that the same is presented in and passed by the State Legislature. When the bill was proposed in 2019, its common knowledge, that there was resistance from the medical fraternity.

143

That resistance will come once again when the provisions of The Clinical Establishments (Registration and Regulation) Act, 2010 are sought to be implemented by the bill proposed by the State Government. However, in case the State Government does not wish to move a separate bill, the State Legislature must ensure that the Central Act of 2010 is adopted and made applicable, as the other States have already done. After adopting the Central Act of 2010, the State Government may frame appropriate Rules as provided in the said legislation.

- 146.** The objection by the medical fraternity has to be balanced against the interest of the people at large of the State of Gujarat. The State Government has to pose a question

to itself: Whether the interest of Medical Practitioners, who might be totaling about one lakh or may be slightly more, is to be given precedence over the interest of the total population of the State running into crores. The answer is very simple. Even otherwise, when there is conflict between private and public interest, precedence has to be given to public interest. For the sake of private interest of a limited number of persons, howsoever highly qualified they may be, the larger public interest, the larger public good cannot be ignored or given a go bye.

147. Therefore, before making any specific recommendation as regards Prevention of Fires the following recommendations are made:

148. In the first instance, the State Government has to have a negative policy regarding recruitment. In other words the State Government shall have to resolve and ensure that there shall be no outsourcing, by whatever name called, insofar as Fire and Emergency Services are concerned for the entire State of Gujarat.

149. During the course of inquiry and interaction with various officers of the Fire and Emergency Services of Ahmedabad and Rajkot, as well as the Acting Director, Fire and Emergency Services of Gujarat State, a common refrain was noticed, namely, there was shortage of trained personnel who could be recruited. Unfortunately, no one has gone to the root

of the matter. There is shortage of trained persons due to the faulty and defective policy of recruitment adopted by the State Government. Since at least 15 years or more, the State Government, in its misguided zeal to save revenue, has virtually put a full stop to recruit people despite the posts falling vacant due to superannuation or other reasons. As a result the vacancies have kept on increasing year after year. Once, such a policy becomes universally known, no person is going to spend money for obtaining degree/diploma/training because, even after having successfully obtained degree/diploma/training in Fire and Emergency Services, he is not going to get a job. The qualification and the training

are such that he cannot get a job in any other sector. Therefore, the direct consequence of the faulty/defective policy is that today no qualified/trained personnel are available, even if the Government wants to fill up vacant posts. And this situation has a direct correlation with the shortage of qualified/trained persons who could be promoted to different hierarchal positions of officers, as the officers who had been recruited say 20 or 25 years back have started superannuating. Atleast, the post of Director, Fire and Emergency Services, Gujarat State has been manned recently by two officers who have been stopgap arrangement by being appointed as Acting Director, while actually holding

the post of Chief Fire Officer, Ahmedabad and Jamnagar respectively.

150. At present the situation in the State Fire and Emergency Services is that if officers from lower rank are promoted, vacancies which arise in the lower rank remain unfilled. Moreover, even the officers who are promoted, say for example as, Chief Fire Officers have to be given ad-hoc charge by designating them as Acting Chief Fire Officers because they have not completed the requisite period of service for filling up the post. Thus, it has become imperative that the State Government understands the consequences of its faulty/defective policy and immediately takes remedial action by lifting the ban on

recruitment in entirety, atleast so far as a disciplined force like Fire Brigade is concerned. Otherwise, the long-term results would be disastrous.

- 151.** In line with the aforesaid recommendation the provisions of Fire Prevention and Life Safety Act, 2013 and the Rules and Regulations thereunder have to be suitably amended to ensure that fully qualified and trained personnel are available to act as:
- (1) Supplemental force which works under the local Fire Brigade; and
 - (2) A feeder force qua the vacancies which arise in the local Fire Brigade.
- The provisions of the aforesaid Act read with the Rules and the Regulations as they stand today merely provide for freelancers, which is not conducive to a good firefighting unit, nor is

150

it conducive to ensuring that all the buildings in the State of Gujarat have proper system in place for prevention of fire and fighting fire, in case of need.

- 152.** The policy of recruitment also requires to be reversed for the simple reason that with growing population and rapid urbanization, the area which an existing Fire Brigade is required to handle keeps on expanding on all sides without corresponding growth in the strength of the persons manning the Fire Brigade. As the area of a city/town increases, the number of fire stations are also required to be increased. When new fire stations are established not only more man power is needed but there has to be a directly corresponding increase in the number of vehicles, firefighting equipment,

151

etc. Hence this is one more reason to give up the faulty/defective policy of a blanket ban on recruitment.

153. There is likelihood that a contention may be raised that a fire brigade is the responsibility of the local body under whose jurisdiction the fire brigade functions. Nothing can be further from the truth. It is well known and established that the Fire and Emergency Services is a State wide force with Head Quarters at Gandhinagar. Therefore, the said argument is without any basis and should not hold back the State Government from initiating immediate remedial action by revamping and upgrading the entire fire brigade of the State. Only if this is undertaken, would any other measures

152

taken to prevent and fight fires and deal with emergencies yield any positive result. Otherwise, regardless of the number of suggestions/recommendations, there will be no improvement in the existing state of affairs. To the contrary, things will keep on deteriorating.

154. There is also an economic aspect which the State needs to bear in mind. After every recent incident of fire in nursing homes, where human lives have been lost, the State Government has declared ex-gratia compensation which has been paid out of the funds of the exchequer. Why should a common tax payer of the State bear the burden of misdeed or laxity of the management of the nursing home? The tax paid in the coffers of the State Exchequer

153

is meant to be used for well-being and improvement of the life of every citizen of the State. This is a Constitutional obligation so far as the State is concerned. The State must compel the management of the nursing home to bear such burden, otherwise all the people who constitute the management of different nursing homes would carry an impression that even if they do not comply with the requisite provisions of the law, as may be applicable, in case of an unfortunate event taking place the State will compensate the victims who suffer in such unfortunate event.

155. As already noticed the policy of regularizing illegal construction by payment of a sum, by whatever name called, has to be suitably modified to

154

ensure that atleast premises which are to be used as nursing homes, etc., or the premises which are to be used for the purpose of Education should not be premises which are illegally constructed. In other words, no nursing home, etc. or an Educational Institution should be permitted to operate in illegally constructed premises which are subsequently regularized on payment of a sum, by whatever name called.

- 156.** Before one determines applicability of the kind of Fire Extinguishers that should be made compulsory, when Fire Extinguishers are to be installed, the standards prescribed by the Bureau of Indian Standards should be considered.

157. The Bureau of Indian Standards has published IS 2190 in November, 2010. The title is:

Indian Standards
SELECTION, INSTALLATION AND MAINTENANCE
OF FIRST-AID FIRE EXTINGUISHERS-
CODE OF PRACTICE
(Fourth Revision)

158. In the FOREWORD it is stated as:

"Portable fire extinguishers are not expected to deal with large fires since they are essentially first-aid fighting equipment. Nevertheless, they are very valuable in the early stages of a fire when used promptly and effectively. Provision of unsuitable types, incorrect operation, or improper maintenance of the extinguishers have, at times, led to failure in tackling the fire effectively in the early stages, thus involving greater loss of life and property. This standard has, therefore been formulated for giving guidance regarding proper selection, installation and maintenance of portable

156

first-aid fire extinguishers so that such fire extinguishers will function at all times as intended throughout their useful life. This standard does not cover the requirements applicable to fixed installation systems for extinguishing fire even though portions of such systems may be portable."

159. Under the heading 'GENERAL', paragraph numbers 4.1, 4.2 and 4.3 state as under:

"(4.1) None of the extinguisher covered in this standard is expected to deal with a large fire as all these are essentially first-aid fire-fighting appliances. Nevertheless, these are very valuable, if used promptly and efficiently in the early stages of a fire. In addition to the value of their portability and mobility the most important feature of these extinguishers is their immediate availability so that each extinguisher can be used by one/two persons. The usefulness of these

extinguishers is limited, as it is entirely dependent upon the presence of persons having knowledge to operate them. Furthermore, their capacity is also limited and their optional value largely depends upon the initial charge being sufficient to overcome and extinguish the fire. The capacity of such extinguishers should commensurate with the risk these are intended to cover.

4.2 Since a variety of shapes or methods of operation of fire extinguishers have at times led to confusion and failure to quench the fire, it is recommended that extinguishers installed in any one building or single occupancy shall be similar in shape and appearance and should have the same methods of operation, as far as possible. All extinguishers shall be equipped by the same control devices even if their design is for different types of fire. This will also simplify the training of the large number of employees

158

in the effective and efficient use of extinguishers.

4.3 *Where employees have not been trained, operations of extinguishers may be seriously delayed, the extinguishing material may be wasted, and more extinguishers may have to be used, or the fire may not be extinguished."*

160. In relation to "SELECTION OF LOCATION', in paragraph 6.9 the requirement which is specified is:

"6.9 A framed plan showing the location of fire extinguishers, means of access and other useful information should be displayed at suitable places on each floor, but should be available near to the entrance to the premises preferably at the security gate or the reception office."

161. Paragraph 9 relates to "SELECTION OF FIRE EXTINGUISHERS".

It is stated that various types of fire extinguishers have been specified, but all are not equally effective on all types of fires. Hence, for selecting the correct category of fire extinguisher the nature of a building and the use or the process carried out in such building will have to be considered. Therefore, basic types of fires have been grouped into following four broad classes:

- "a) Class A fires- Fires involving solid combustible materials of organic nature such as wood, paper, rubber, Plastics, etc, where the cooling effect of water is essential for extinction of fires.*
- b) Class B fires – Fires involving flammable liquids or liquefiable solids or the like where a blanketing effect is essential.*
- c) Class C fires – Fires involving flammable gases under pressure including liquefied*

160

gases, where it is necessary to inhibit the burning gas at fast rate with an inert gas, powder or vaporizing liquid for extinguishment.

- d) Class D fires - Fires involving Combustible metals, such as magnesium, aluminum, zinc, sodium, potassium, etc, when the burning metals are reactive to water and water containing agents and in certain cases carbon dioxide, halogenated hydrocarbons and ordinary dry powders. These fires require special media and techniques to extinguish.*

162. In paragraph 10 different types of fire extinguishers are mentioned against each class of fire, which are generally most suited. The same are only for guidance and do not cover special cases.

- “a) Class A fires – water, foam, ABC dry power and halocarbons.*

161

- b) *Class B fires – Foam, dry, powder, clean agent and carbon dioxide extinguishers.*
- c) *Class C fires – Dry powder, clean agent and carbon dioxide extinguishers.*
- d) *Class D fires - Extinguishers with special dry powder for metal fires.”*

163. Under ANNEXURE B 'RECOMMENDATIONS FOR INSTALLATION OF FIRE EXTINGUISHERS' are stipulated. The table in the said ANNEXURE lays down Class of Occupancy, Type of Occupancy, Nature of Occupancy, Class of Fire and Typical Examples. Under this it is stated in relation to Group C, i.e. Class of Occupancy:

| <i>Class of Occupancy</i> | <i>Type of Occupancy</i> | <i>Nature of Occupancy</i> | <i>Class of Fire</i> | <i>Typical Examples</i> |
|----------------------------------|---------------------------------|-----------------------------------|-----------------------------|--|
| <i>Group C</i> | <i>Institutional Buildings</i> | <i>MH</i> | <i>Class A</i> | <i>Hospitals, sanatoria, homes for aged, orphanage</i> |

However, though the Nature of Occupancy is shown as falling under category 'MEDIUM HAZARD', in a Hospital having intensive care unit wherein supply of oxygen is continuous or constant, either by way of a pipe line or by way of cylinders, the Nature of Occupancy should be upgraded to 'HIGH HAZARD' from 'MEDIUM HAZARD', and the Class of Fire should be upgraded to Class C from Class A.

- 164.** In fact, both the incidents of Fire at Ahmedabad and Rajkot have shown that, apart from the fact that the staff on duty was not trained to fight fire and deal with emergency, it was the supply of oxygen which was instrumental in the fire going out of control. Hence, the aforesaid

163

recommendation to upgrade the Nature of Occupancy and the Class of Fire.

165. Paragraph 11 deals with 'INSPECTION AND MAINTENANCE OF FIRE EXTINGUISHERS'.

Thereunder, vide paragraph number 11.10 General Safety Precautions for Maintenance have been prescribed. Therein paragraph 11.12 deals with the requirement of monthly inspection in the following words:

"11.12 The maintenance, inspection and testing of all extinguisher in respect of mechanical parts, extinguishing media and expelling means should be carried out by properly trained and competent personnel at frequent intervals, but at least once a month, to ensure that these are in their proper condition and have not been accidentally discharged or lost pressure or suffered damage. Regular inspection of all extinguishers

164

and their components like spare cartridges and refills kept in the stores should also be done to ensure that these are in proper condition and fit for use.” (emphasis supplied)

166. The procedure for quarterly maintenance is laid down in paragraph 11.13. Paragraph 11.14 prescribes that over and above the quarterly inspection, all the extinguishers shall be subjected to a more thorough inspection at least once in a year. However, it is further stated that advantage should be taken of this annual inspection to train personnel in the operation of extinguishers.

167. To ensure that fire extinguishers are effective, proper maintenance is essential. Paragraph 11.12 stipulates procedure for *monthly* maintenance.

165

The procedure for *quarterly* maintenance is laid down in paragraph 11.13. Over and above the monthly and the quarterly maintenance all the fire extinguishers have to be more thoroughly inspected at least once every year.

- 168.** Annexure 'D' pertains to refilling schedule for fire extinguishers and schedule for operational test on fire extinguishers. Annexure 'E' lays down schedule for hydraulic pressure testing of fire extinguishers. However, the periods mentioned in the said schedules cannot be used to defer or delay the maintenance and inspection stipulated by Paragraphs No. 11.12, 11.13 and 11.14 which provide for monthly, quarterly, and annual inspection respectively. For the purpose of prevention

of fires the maintenance and inspection have to be carried out at the specified interval. It is necessary that this requirement is incorporated immediately so as to become applicable to all buildings, with special reference to premises which run hospitals, nursing homes etc. Merely because the life of fire extinguishers as per the table at Annexure 'F' is for a longer period, that cannot be a ground for not carrying out the maintenance and inspection at the specified intervals. Moreover, there has to be a system, a procedure which ensures that the maintenance and inspections required to be carried out at monthly, quarterly and annual intervals are actually carried out.

167

169. During the course of the Inquiry undertaken by This Commission it has been noticed that as per the present prevalent procedure the fire brigade of the concerned Municipal Corporation issues a NOC on the basis of either what is stated by the management, or on the basis of an affidavit filed by the dealer/agency who supplies the fire extinguishers. Same is the position in relation to the capacity of underground and overhead water tanks. Uday Shivanand Hospital, Rajkot is a perfect example as regards such discrepancy. The fire brigade is handicapped due to shortage of staff and is not in a position to even make a random surprise check.

170. This position also prevails in so far as the training to fight fires, which is to be given to the staff of the hospitals, is concerned. On paper the dealer/agency states that training is given to the staff members, and the management, at the highest, gives in writing names of a few staff members who are stated to have been allegedly trained.

171. By way of illustration, in the case of Uday Shivanand Hospital, Rajkot, the management gave in writing names of four persons alleged to have been trained in firefighting. The fire brigade was satisfied by obtaining such a written communication from the management; and the fire brigade placed reliance on the said communication to defend itself for stating

that the staff had been trained in firefighting.

- 172.** Similarly, in so far as Shrey Hospital, Ahmedabad is concerned, reliance has been placed both by the hospital management and the authorities, on certain photographs produced by the management and placed on record. It became apparent when the persons, who were on duty in the ICU ward on the day and time of the Incident of Fire, were examined, that except for one member of the nursing staff all others had joined the hospital recently and were not a part of the group who were alleged to have been trained.

173. Furthermore, the kind of training which is said to have been given to the staff members of the hospital itself indicates that none of the persons involved, are serious and sincere about the actual training. The management thinks it is not profitable; the dealer/agency who is supposed to impart training has no interest and merely goes through the motions so that his bill for supply of the equipment is cleared and paid by the management. Moreover, by way of training the dealer/agency, through its representative merely shows and speaks how to operate a fire extinguisher without any of the staff members even actually handling the equipment, much less operating the same. This was categorically stated by a staff

member of Uday Shivanand Hospital, Rajkot during the course of his deposition.

174. There is one more aspect of the matter.

The human psyche is that, a person always thinks that he/she will never have to face an emergency so as to either fight fires or save life in case of a sudden fire. Therefore also, when training is imparted there is no interest or real intent to learn.

175. Another aspect is, that even if actual training is imparted, handling and operation of the fire-fighting equipment is not something which a person would be able to undertake in a case of actual emergency. At the level of mental preparedness, there has to be a willingness to fight against various odds occurring

during the actual incident. In other words, a person has to be mentally strong enough to stand up and face the problem, even if it means that an injury may occur to such a person. On the other hand, there has to be physical capability. Removing a fire extinguisher from its wall mounting, carrying to the site of the fire and actually operating the equipment to douse the fire requires a certain amount of minimum physical strength.

- 176.** All this assumes importance in light of the fact that for building the mental and physical capacity there has to be repeated stints of actual fire drill. A person must be called upon to handle, carry and operate the equipment from the place where the equipment is located to the site of fire.

173

Simultaneously, presence of mind is required to ensure that the damage to property is not given precedence over saving of life.

177. In light of what is stated hereinbefore, mere installation of Fire-fighting equipment or having a valid NOC is neither going to prevent fires, nor is such NOC/installation going to fight fires, nor is it going to save life and/ or property. The government would be well advised to bear the aforesaid factors in mind when a policy is framed for the purpose of prevention of the fire and saving of life. Any policy which overlooks or ignores these factors would not be effective, even though on paper the policy would appear to be very attractive. While framing any policy in relation to

prevention of fire, fighting of fire and saving of life is concerned, the policy has to be divided into three categories. In the first category the consideration has to be short term resolution of problem, i.e. deal with immediate issues in the present. The second category has to relate to a medium term. In other words, lay down solutions which can be implemented, are possible to implement, over a medium range of period. The last category would be the steps on a long-term basis. This would include planning for future in relation to new buildings that may be coming up or are likely to come up. However, by only looking at a long-term solution the government will not be able to wish away

175

the issues/ problems which the government is facing today.

178. Installation of Fire Extinguishers is only one part of the solution. Unfortunately, today many small and medium size hospitals are functioning in Commercial Buildings that are not meant to be used by the Health Care Centers. For the purpose of long-term safety there have to be structural changes, revamping of electrical load, including wiring and then the installation of The Fire Safety Equipment.

179. As already noticed, not only are nursing homes/hospitals functioning in Commercial Buildings, but even in cases, where there is no mixed occupancy, such nursing homes, etc. are functioning in, admittedly

illegal buildings just on payment of regularization fees. The State has to ensure that all such nursing homes/hospitals, etc. located or functioning in buildings which are not meant to be used for Health Care purposes, should be nudged to shift to legally constructed premises, even in existing buildings were the specifications by and large, confirm to, or/are as near to the parameters stipulated by the National Building Code. It is understandable that the specifications prescribed by NBC cannot be made applicable to existing buildings immediately and in entirety. However, the State must give priority to nursing homes and hospitals in the first instance, and thereafter second in order of

priority should be Schools and all other Educational Institutions. For the changes to take place one has to make a beginning, bearing in mind that COVID-19 has not disappeared. May be at present the Indian Scenario cannot be described as a pandemic situation, but at the same time one cannot take things easy and revert back to old ways of letting things be as they are.

- 180.** In private clinics/nursing homes where there are structural problems the State can formulate a policy of starting with clinics where there are ICU's having capacities of 5 (five) or less than 5 (five) beds. Subsequently the nursing homes/hospitals can be identified where the ICU's have beds going upwards in figures.

181. There have to be 2 (two) staircases for Emergency Exit but at present many hospitals have only 1 (one) staircase and that too with a width less than the required width of 2 (two) meters. Identifying such buildings/nursing homes situated in mixed occupancy commercial buildings will be the first requirement before any provision for a second staircase having enough width can be made. Shrey Hospital, Ahmedabad is a classic case where this is not possible. Firstly, the building is an illegal premise, given permission to run a nursing home/hospital only on payment of regularization/impact fees. Hence, it does not have enough space/area where a second staircase can be constructed.

182. Even in cases where there are 2 (two) Elevators, in absence of a separate, standby power source the second elevator is of no use because in case of a fire emergency the first thing that happens is electric supply gets cut off, or has to be shut down so as to prevent the fire from spreading through the electrical cables.

183. Another problem area is obstructions created in the premises itself by temporary structures to bifurcate COVID-19 designated areas and Non-COVID areas; second problem is obstructions at the ground level, more particularly in margin area. If any example is required, Shrey Hospital is such an example. The rear margin and margin on one side are covered and obstructed due to the said area having

been allotted to a catering contractor. On the rear side there is a kitchen which contains LPG Gas Cylinders, Microwave Ovens and a sunken area for cleaning utensils, which is just next to the underground water tank. The side margin area is filled up with tables and chairs where beverages and eatables are served. This assumes importance in light of the fact that if Fire Brigade would have had access to the side margin area possibly, they might have had precious seconds in which they could have broken into ICU from outside. As the facts have revealed due to dense black smoke Fire Brigade personnel could not enter the ICU because there were 2 (two) sets of doors between which there was a vacant passage area, and there were

no signages nor any diagram indicating the layout. The Fire Brigade personnel were therefore forced to go to the top, climb down from the terrace with the help of a rope, break open glass windows resulting in the unfortunate delay causing death of 7 (seven) out of 8 (eight) patients due to asphyxiation.

184. The next thing which requires to be addressed is the use of false ceilings which leaves less space for smoke to travel upwards. Such trapped smoke at eye level not only hampers firefighting operations but causes asphyxia. The false ceiling also leaves less space for heat to spread resulting in burn injuries in lungs even without there being any direct contact with the fire itself. This has happened both in

182

case of patients in ICU of Shrey Hospital, Ahmedabad and ICU of Uday Shivanand Hospital, Rajkot.

- 185.** Considering that the intensity of COVID-19 has substantially reduced and number of hospitals which were designated as COVID hospitals have been derequisitioned (as at the time of drafting this report), the Government would be well advised to consult Senior Fire Brigade personnel and seek their opinion as to which of hospitals can in future be designated/requisitioned in case of an epidemic. Furthermore, all the officers who are empowered, in future, to take appropriate measures under the Epidemic Diseases Act should be required to consult the senior most fire brigade

183

officer in their jurisdiction before making an order of requisition.

186. Amongst the immediate measures that can be initiated are removal of obstructions in the staircases, removal of glass facades and grills which are likely to prove hindrance in firefighting.

187. While taking care of these structural issues referred above, one major issue is installation of automatic fire alarms linked with smoke detectors and automatic sprinkler system. This is an appropriate time when atleast these changes can be carried out when there is no load on the ICUs.

188. The facts and evidence in both the incidents of fire at Ahmedabad and Rajkot

have shown that even when fire extinguishers have been installed, firstly the location is not appropriate. Secondly, and this is more important, the incapability of the health care staff to operate the fire extinguishers while wearing PPE Kits, and even without such kits. There has to be a long-term policy for compulsory fire training to the health care staff. This aspect has been dealt with in detail while referring to the selection, installation and maintenance of fire extinguishers hereinbefore.

- 189.** A practical way out for dealing with this is, there should be qualified fire fighters appointed at hospitals to lead firefighting before the fire brigade personnel arrive at the scene of fire. Such qualified firefighters

185

can be hired as either security staff, or staff who are required to undertake cleaning and maintenance operations. The caveat is, there should be repeated training by actual stints of fire drill. Just as mere installation of fire extinguishers is not going to prevent or fight fires, similarly mere hiring of qualified staff cannot be sufficient if they do not undertake actual physical firefighting drill may be a mock drill, but the same has to be a regular feature at certain intervals, and also on an emergency surprise basis.

190. So far as electrical connections are concerned first and foremost requirement is to ensure that not only appropriate load is sanctioned and obtained, but commensurate wiring involving cables and

electrical sockets and switches, etc. which emit low smoke have to be used.

- 191.** One more issue on which attention is required to be focused is loose connection, more particularly in case of plug and sockets, which is either as a result of different sizes, or the plug and the sockets are mismatched. An example is use of 15 Amperes equipment in 5 Ampere sockets. Similarly use of multiple plugs in a socket having multiple outlets should be prohibited. Even use of extension cords, which basically is only a temporary arrangement, cannot be permitted on a long-term basis. It has been found that extension cords are employed to plug-in multiple electrical equipments.

192. All MCBs (Miniature Circuit Breaker) have to be replaced by ELCBs (Earth Leakage Circuit Breaker). Furthermore, use of 100 mA switches instead of 30 mA switches prevents tripping in case of small spikes in power supply. This is ill-advised, especially for hospitals and more particularly, ICUs having oxygen rich environment.

193. Lastly, the most important. There is no policy to change or replace ventilators and other critical medical equipments which use electrical power. They are being used 24x7 on patient after patient without any break resulting in overheating of the internal wiring, or their circuits, or other components like sensors. In case of Shrey Hospital, Ahmedabad sparking (short-circuit) took place in a patient monitor and

in case of Uday Shivanand Hospital, Rajkot sparking (short-circuit) took place in a thermo sensor located in the oxygen/air pipe/tube proceeding (which supplies) from ventilator to the patient.

- 194.** There has to be a system in place to ensure that the record of medical equipments which are in use in ICUs is available, especially before a nursing home/hospital is requisitioned by the Government in case of emergency. Availability of such record would be helpful to determine whether the said medical equipment is within the reasonably valid period of effective functional life of that equipment. Maintenance of such record can be effected by ensuring that the nursing home/hospital places the details at the time of obtaining

registration or yearly renewal of registration. Such record can be simultaneously linked with the annual application for Fire NOC or Fire Safety Certificate. This will ensure that there is cross verification of the details which come on record relating to a particular nursing home/hospital. A requisite software for this purpose should be custom made and compulsorily installed across the State linking the Fire & Emergency Services and Health Care Services. Just as a policy is recently being put in place to phase out old vehicles to control pollution, a similar policy should be framed and put in place to ensure that medical equipments like patient monitors, ventilators, etc. are phased out or replaced at the end of 5

190

(five) years. This will reduce the chances of any short-circuit taking place.

195. There is one more aspect of the matter which requires serious consideration. In case of Shrey Hospital, Ahmedabad NOC was issued on 04.04.2019 and the same was valid upto 30.04.2020. The hospital had already been closed down, and started functioning w.e.f. 23/24.05.2020 after being requisitioned for treating COVID-19 patients. Thus, on the day the hospital started functioning, there was no valid NOC regarding fire, despite which an Order of requisition was made without due verification. In these circumstances, the reliance by the management of Shrey Hospital, Ahmedabad on the General

191

Circular issued by Government of India, Ministry of Housing and Urban Affairs vide notification no. K-14011/12/2020-AMRUT-IIA dated 28.05.2020, which extended the validity of various NOCs for 6 (six) months from 25.03.2020, is misplaced. In the first instance, the said circular was primarily issued in context of Housing Projects; Secondly, if the Fire NOC had expired and/or the validity of the fire equipment, i.e. functional life of fire extinguishers itself has expired, mere extension of the period of NOC cannot help as mere extension of date will not extinguish an actual fire. Therefore, in future while requisitioning a premise during a pandemic, a guideline should be available to determine whether a given nursing home/hospital should be

requisitioned or not. The building should not be illegal; should have valid registration under The Clinical Establishments Act; should have valid fire safety certificate based on firefighting equipment which is having effective functional life; and, the fire safety certificate should also ensure that the critical medical equipments are within the effective functional life period of such equipments. The nursing home/hospital should also have trained persons who can act in time of emergency, and such persons should be available 24x7 by being assigned duties in reasonable shifts.

SUMMARY

- **The policy to hire by mode of outsourcing needs to be given up.**
- **Every decision cannot be formed and arrived at by applying touchstone of cost/revenue.**
- **The welfare of the entire population of the State has to be paramount consideration, which cannot be modulated on consideration of revenue impact.**
- **Fire and Emergency Services fall within a priority sector which requires adequate number of workforces,**

which has to be in readiness round the clock.

- Such a force has to be a disciplined force which cannot be dependent upon or supplemented by persons who are outsourced.
- Accordingly, the provisions of The Fire Prevention & Life Safety Measures Act, 2013, the Rules framed thereunder, and the Regulations have to be appropriately amended.
- The Gujarat Nursing Homes Registration Act, 1949 is not being applied correctly and uniformly.
- All clinics, nursing homes, hospitals, etc. by whatever name called should

be brought under one common legislation and under one department.

- **The Clinical Establishments (Registration & Regulation) Act, 2010 should be adopted and made applicable to the State of Gujarat.**
- **The State Government may frame appropriate Rules as provided in The Clinical Establishments (Registration & Regulation) Act, 2010.**
- **The private interest of the medical fraternity has to be balanced against the public interest, namely the people of the State of Gujarat.**
- **There is shortage of trained personnel who can be recruited in the Fire &**

Emergency Services due to faulty and defective policy of recruitment, which requires to be reversed.

- **There is direct correlation with the shortage of qualified/trained personnel with the faulty/defective policy of recruitment.**
- **Remedial action by lifting the ban on recruitment in entirety for the Fire & Emergency Services is required to be taken immediately.**
- **Considering the growing population and rapid urbanization the area which an existing fire brigade requires to handle keeps on expanding. Hence establishment of new fire stations**

means not only requirement of more manpower and increase in infrastructure which should be undertaken as a long-term solution.

- A common tax payer should not be saddled with the burden to bear the cost of ex-gratia compensation.
- The same should be recovered from the management of the nursing home/hospital which is found to have been lax in complying with the laws.
- Illegal Constructions should not be regularized by payment of a sum, by whatever name called.
- No nursing home, hospital, etc or an educational institution should be

permitted to operate in illegally constructed premise, even if subsequently regularized on payment of a sum, by whatever name called.

- **IS 2190 published by The Bureau of Indian Standards should be rigorously applied and implemented with appropriate further stringency as suggested.**
- **The schedule of inspection and maintenance of fire extinguishers needs to be followed as prescribed.**
- **The fire brigade should not rely on the statement of the management or the dealer/agency supplying the fire**

extinguishers for the purpose of issuing NOC/Fire Safety Certificate.

- **The procedure/modality of training staff of a nursing home/hospital needs to be specified with intervals prescribed at which a mock drill should be carried out without fail.**
- **In the long-term nursing homes/hospitals functioning in buildings which are primarily not built to be used for health care purposes should be made to shift to legally constructed premises.**
- **Guidelines have to be framed and laid down as to what kind of premises**

should be requisitioned under The Epidemic Diseases Act.

- **Such guidelines have to involve the local fire brigade in the decision-making process for the purpose of requisitioning a building.**
- **This will ensure that, as far as possible adherence to the requirements of National Building Code is ensured, like removal of obstructions in the premises, having specific staircase for emergency exit of appropriate size.**
- **As far as possible construction of a false ceiling in ICU must be prohibited. In the alternative, fire retardant material should be made compulsory.**

- **Use of fire-retardant material for mattresses, bed linen, curtains, furniture, etc. should be made compulsory atleast in ICUs.**
- **Automatic Fire Alarms linked with Smoke Detectors and Automatic Sprinklers have to be made compulsory.**
- **Not only installation but functionally effective Automatic Fire Alarms linked with Smoke Detectors and Automatic Sprinklers have to be ensured.**
- **All nursing homes/hospitals should have qualified firefighters on staff, which could be by way of either**

security or cleaning and maintenance personnel.

- **Such staff has to be appointed so as to be available at the time of all shifts round the clock.**
- **So far as connection for electrical power is concerned not only appropriate load should be sanctioned and obtained, but commensurate low smoke wiring, sockets, switches, etc. should be used.**
- **Loose or mismatched connections particularly in case of plug and sockets involving different sizes and capacity, including extension cords should not be permitted to be used.**

- **All MCBs should be replaced by ELCBs and the capacity of ELCBs should be such that it ensures reflection of even small spikes in power supply.**
- **There should be data available to ensure that obsolete critical medical equipments, whose effective life has ended, are not used year after year.**
- **There should be a policy to ensure that ventilators, patient monitors and other critical medical equipments which use electrical power are changed/replaced to prevent overheating of internal circuits.**
- **Therefore, in future while requisitioning a premise during a**

pandemic, a guideline should be available to determine whether a given nursing home/hospital should be requisitioned or not. The building should not be illegal; should have valid registration under The Clinical Establishments Act; should have valid fire safety certificate based on firefighting equipment which is having effective functional life; and, the fire safety certificate should also ensure that the critical medical equipments are within the effective functional life period of such equipments. The nursing home/hospital should also have trained persons who can act in time of emergency, and such persons

205

should be available 24x7 by being assigned duties in reasonable shifts.

GANDHINAGAR JUSTICE D. A. MEHTA



Action taken by the State Government with reference to the recommendation of the Justice D.A. Mehta enquiry report relating to the fire incidents at Shrey Hospital, Ahmedabad and Uday Shivanand Hospital, Rajkot

The Justice D. A. Mehta Enquiry Commission submitted its report in respect of Fire Incidents at Shrey Hospital, Ahmedabad and Uday Shivanand Hospital, Rajkot to the State Government on 30th March, 2021. Though two separate reports have been submitted, the recommendations are same in both the reports. The recommendations of the reports pertain to different Departments of the Government such as Health Department, Urban Development Department, Energy & Petrochemicals Department and General Administration Department. State Government is in the process of examining the recommendations in detail and in many cases, suitable remedial action has been initiated to implement key recommendations as placed below.

| Para No. in Uday shivana nd hospital report | Para No. in Shrey hospital report | Recommendation | Concern Dept. | Action taken |
|--|--|--|------------------------------------|---|
| 128 | 119 | Before making any recommendation, it is necessary to take note of the fact that there are major serious deficiencies / defects in so far as the functioning of the State Government is concerned. Only if a holistic approach is adopted will it be possible to really take care of the issues which have been thrown up during the course of the inquiries in the incidents of fire at Uday Shivanand Hospital, Rajkot and Shrey Hospital, Ahmedabad. | Urban Development Department (UDD) | It is an observation. A holistic approach in a right earnest is taken to improve the issues related to Fire Prevention, Life Safety and Fire Protection. |
| 129 | 120 | The first and foremost is the policy of the State Government to hire personnel by the mode of outsourcing. The State Government needs to understand that in every sphere of Governance outsourcing of employees is not only detrimental to an effective and efficient Government, but it creates a situation, a culture which yields negative result by way of outright poor performance. The reason is not far to seek. A person who has no direct interaction with the employer has no loyalty either by way of output or by way of attendance. Infact, both are interlinked. Absence of regular attendance directly impacts the output. | UDD/GAD | The State Government partially accepts the recommendation. As far as fire personnel are concerned, the policy of outsourcing is a temporary arrangement till regular recruitment is done. The State Government and various Urban Local Bodies (ULBs) are in the process of recruiting regular staff for manning the fire services in their jurisdiction. For other departments of the State Government this recommendation is not accepted. |
| 130 | 121 | Furthermore, with an outsourced employee the quality of service is | UDD/GAD | The State Government partially accepts the recommendation. As |

| | | | | |
|-----|-----|--|-----|---|
| | | <p>directly affected. A person coming through a contractor is going to be a person who is at the lowest rung of the number of persons available in the job market in so far as the qualification is concerned. Only those persons who have no acceptance anywhere else go to the contractor for being employed through that contractor. It is well known fact that the contractors who supply staff to various government departments have obtained the contract by making bids, and the lowest bidder is accepted. Therefore, such contractor is bound to keep the wages at the bare minimum level to ensure that the contractor himself earns by virtue of the contract having been assigned to him.</p> | | <p>far as fire personnel are concerned, the policy of outsourcing is a temporary arrangement till regular recruitment is done. The State Government and various Urban Local Bodies (ULBs) are in the process of recruiting regular staff for manning the fire services in their jurisdiction. For other departments of the State Government this recommendation is not accepted</p> |
| 131 | 122 | <p>The State Government needs to appreciate that every decision cannot be formed and arrived at by applying the touchstone of revenue. Only the cost aspect cannot be the sole consideration before arriving at a decision, formulating a policy. The Finance Department cannot be permitted to assume a larger - than - life role in a Government. The cardinal principle that a government is nothing else but a decision making body which acts collectively, cannot be lost sight of. The assignment and distribution of work amongst different Ministers is only for the sake of administrative exigency and convenience. A decision by one or the other Minister, including the Chief Minister, is ultimately a collective decision which binds all the Ministers, who constitute the Government in equal measure. Therefore, at the cost of repetition, it requires to be stated that every policy / decision cannot be taken or arrived at by only keeping in mind the revenue impact.</p> | UDD | <p>It is an observation. So far as Life Safety is concerned, the decision by the government is not taken on cost revenue aspect alone.</p> |
| 132 | 123 | <p>The State Government has to realize that it is required to govern the State, i.e. govern the State effectively, and not make a show of governing. The welfare of the entire population of the State has to be paramount consideration. The approach cannot</p> | UDD | <p>It is an observation. So far as Life Safety is concerned, the decision by the government is not taken on cost revenue aspect alone.</p> |

| | | | | |
|-----|-----|---|-----|--|
| | | be contrary by first of all considering the revenue impact, and then modulate the requirement of welfare of the people of the State. | | |
| 133 | 124 | A serious relook at the policy of Regularization of Unauthorized Construction is required to be undertaken. More specifically in case of Nursing homes and / or hospitals which would include maternity homes and other specialized medical and surgical care units. Otherwise, the state Government would be failing in its duty to take care of life of its citizens. Right to Life is fundamental right which requires to be protected by the State. The State needs to understand that there cannot be a blanket policy for Regularization of Unauthorized Construction only on the basis of revenue earned, by whatever name it may be called, whether Regularization fees or Fine or Impact fees, etc. and this would apply not only to Nursing homes and Hospitals but also in case of schools, including all educational institutions like coaching classes, etc. If unauthorized construction in and on the premises of Shrey Hospital would not have been regularized, the fatalities which took place on the night of 5- 6 August, 2020 could have been avoided. | UDD | It is an observation about the impact of the past policy of regularization. At present, there is no blanket policy for regularization of unauthorized construction. |
| 134 | 125 | Fire and Emergency Services fall within a sector which has to take priority. The personnel manning such a force like Fire and Emergency Services have to be available round the clock, i.e. 24x7 for 365 days of the year; and it is not only for a single year, but is required year after year without any break. Therefore, not only there should be adequate number of workforce, but it has to be in readiness, prepared round the clock. Hence, the minimum requirement is that such a force is a uniform force, namely a disciplined force. Such a force cannot be dependent upon or supplemented by persons who have been outsourced through a contractor. | UDD | The State Government accepts the recommendation with regard to fire personnel. There is no ban on recruitment for fire personnel. The policy of outsourcing on existing staff set up is a temporary arrangement till the regular recruitment is done of Fire personnel. |

| | | | | |
|-----|-----|--|--------------|--|
| 135 | 126 | The Provisions of The Fire Prevention and Life Safety Measures Act, 2013 as well as the rules framed thereunder, and the regulations, are primarily supposed to be implemented through the mode of outsourcing. The concept of privatization has to be restricted and made applicable only in sectors, which may be properly described as commercial. One can understand that it is not the business of the government to be in business and commerce. A government is not meant for conducting the business or trading in goods. | UDD | The State Government accepts the recommendation with regard to fire personnel. There is no ban on recruitment for fire personnel. The policy of outsourcing on existing staff set up is a temporary arrangement till the regular recruitment is done of Fire personnel. |
| 136 | 127 | However, this concept of not being in business cannot be stretched to shirk its responsibility of governing the State by ensuring the health and wellbeing of the public at large. Public health is primarily a State subject, and therefore the State has to be alive and conscious to the fact that all things connected with public health have to be dealt with conscientiously and not on the basis of revenue impact. | Health | It is an observation. |
| 137 | 128 | During the course of inquiry, it has come to notice that except for the areas falling under Municipal Corporations there is no statutory provision which governs the registration of nursing homes, hospitals, sanatoria, etc. Even in the city of Ahmedabad the provisions of the Gujarat Nursing Homes Registration Act, 1949 are not applied properly / correctly. The provisions require that every nursing home has to apply for Registration every year, and the Registration granted is valid till 31st March of the succeeding year. | Health | The State Government will act for registration for all nursing homes. |
| 138 | 129 | Upon verification of the documents relating to the registration of Shrey Hospital, Ahmedabad it was found that Registration has been granted for a period of 5 (five) years. When the person, from Ahmedabad Municipal Corporation (AMC), who is authorized and responsible for granting Registration was called upon to explain the basis for granting | UDD / Health | It is an observation. In future registration of all the facilities will be done as per the rules framed under specific time period |

| | | | | |
|-----|-----|--|--------------|--|
| | | Registration for a period of 5 (five) years, he relied on a Resolution, made by the Standing Committee, to contend that it was on the basis of this Resolution that the Registration was granted for a period of 5 (five) years. However, when it was pointed out to him that the said Resolution had merely fixed the rates to be charged for granting Registration, and that too on a yearly basis, he had no valid answer for having adopted such a practice since 2012. | | |
| 139 | 130 | In so far as Rajkot Municipal Corporation is concerned, the position is slightly different. Though, there also registration is being granted for a period of five years, the same is on the basis of a note put up before the Municipal Commissioner which has been duly signed by him. The fees for registration are being collected by framing alleged byelaws under provisions of Bombay Provincial Municipal Corporation Act, and strangely, the same have been approved by the Urban Development Department. | UDD / Health | It is an observation. In future registration of all the facilities will be done as per the rules framed under specific time period |
| 140 | 131 | In so far as the rural area is concerned, the position is still worse. There is no Register maintained, nor any Registration granted to any clinic or nursing home. There is only one Circular issued by The Director, Health which requires maintaining the details of medical persons who are either running a clinic or a nursing home or a maternity home, etc. only for the purpose of ascertaining that there are no quacks / bogus doctors practicing medicine. Even those who are registered with The Gujarat Medical Council are not amenable to any regulatory provisions. | Health | The State Government will make the rules for registration of all nursing homes and clinics. This will be applicable to all rural areas also. Bogus practice will not be allowed in any circumstances |
| 141 | 132 | In light of this position the Commissioner, Health Services / Medical Services was called upon to furnish complete details as to the area in the State of Gujarat in which GNHR Act is applicable, and if the same is not applicable in certain areas of The State, how does the State determine the number only "of nursing | Health | It is an observation The State Government will decide that all nursing home and hospitals will run as per the rules framed. |

| | | | | |
|-----|-----|---|--------|---|
| | | homes, hospitals, etc. functioning in the State of Gujarat. | | |
| 142 | 133 | The Additional Director, Medical Services has categorically confirmed that GNHR Act applies only in the 6 (Six). Municipal Corporation Areas and is implemented by the local supervising authority. Therefore, all nursing homes, hospitals, etc. fall under Urban Development Department. | Health | The State Government will decide that all nursing home and hospitals will run as per the rules framed by health department as well as the rules framed by urban development Department |
| 143 | 134 | If the Government does not have data of the total number of nursing homes, hospitals, etc. functioning in the State of Gujarat it is inconceivable that the Government would be in a position to check as to whether any Fire Prevention and Life Safety Measures are in place in such nursing homes, hospitals, etc. | Health | To decide total number of nursing homes and hospitals health and family welfare department will make an MIS system. |
| 144 | 135 | Hence, the first step that the Government requires to take is to ensure that all clinics, nursing homes, by whatever named called, are brought under one common legislation and under one department. Whether that department should be Urban Development Department or not is a moot question. When the State already has a Commissionerate of Health why should there be such a dichotomy regarding Health Services only on the basis of Geographical Location: Urban or Rural. More so, because even in Urban Areas application of the provisions of the GNHR Act is not only not uniform, but outright contrary to the provisions of the GNHR Act. This is a serious flaw which requires immediate remedial action. | Health | The State Government has framed Clinical Establishments Act and it has been notified by the legislative assembly |
| 145 | 136 | The best way forward in such a situation is that the State Government which had already proposed a bill in 2019, namely The Gujarat Clinical Establishments (Registration and Regulation) Bill, 2019, must go ahead and ensure that the same is presented in and passed by the State Legislature. When the bill was proposed in 2019, its common knowledge, that there was resistance from the medical fraternity. That resistance will come once again | Health | Already implemented. The Legislative assembly of Gujarat has already passed the Gujarat Clinical Establishments (Registration & Regularization) Act, 2021. Remaining process is being carried out |

| | | | | |
|-----|-----|--|--------|--|
| | | when the provisions of The Clinical Establishments (Registration and Regulation) Act, 2010 are sought to be implemented by the bill proposed by the State Government. However, in case the State Government does not wish to move a separate bill, the State Legislature must ensure that the Central Act of 2010 is adopted and made applicable, as the other States have already done. After adopting the Central Act of 2010, the State Government may frame appropriate Rules as provided in the said legislation. | | |
| 146 | 137 | The objection by the medical fraternity has to be balanced against the interest of the people at large of the State of Gujarat. The State Government has to pose a question to itself: Whether the interest of Medical Practitioners, who might be totaling about one lakh or may be slightly more, is to be given precedence over the interest of the total population of the State running into crores. The answer is very simple. Even otherwise, when there is conflict between private and public interest, precedence has to be given to public interest. For the sake of private interest of a limited number of persons, howsoever highly qualified they may be, the larger public interest, the larger public good cannot be ignored or given a go bye. | Health | It is an observation |
| 147 | 138 | Therefore, before making any specific recommendation as regards Prevention of Fires the following recommendations are made: | | No recommendation in this para. |
| 148 | 139 | In the first instance, the State Government has to have a negative policy regarding recruitment. In other words the State Government shall have to resolve and ensure that there shall be no outsourcing, by whatever name called, insofar as Fire and Emergency Services are concerned for the entire State of Gujarat. | UDD | The State Government accepts the recommendation with regard to fire personnel. There is no ban on recruitment for fire personnel. The policy of outsourcing on existing staff set up is a temporary arrangement till the regular recruitment is done of Fire personnel. |
| 149 | 140 | During the course of inquiry and interaction with various officers of the | UDD | The State Government accepts the recommendation with regard |

| | | | | |
|-----|-----|---|-----|---|
| | | <p>Fire and Emergency Services of Ahmedabad and Rajkot, as well as the Acting Director, Fire and Emergency Services of Gujarat State, a common refrain was noticed, namely, there was shortage of trained personnel who could be recruited. Unfortunately, no one has gone to the root of the matter. There is shortage of trained persons due to the faulty and defective policy of recruitment adopted by the State Government. Since atleast 15 years or more, the State Government, in its misguided zeal to save revenue, has virtually put a full stop to recruit people despite the posts falling vacant due to superannuation or other reasons. As a result the vacancies have kept on increasing year after year. Once, such a policy becomes universally known, no person is going to spend money for obtaining degree / diploma / training because, even after having successfully obtained degree / diploma / training in Fire and Emergency Services, he is not going to get a job. The qualification and the training are such that he cannot get a job in any other sector. Therefore, the direct consequence of the faulty / defective policy is that today no qualified / trained personnel are available, even if the Government wants to fill up vacant posts. And this situation has a direct correlation with the shortage of qualified / trained persons who could be promoted to different hierarchal positions of officers, as the officers who had been recruited say 20 or 25 years back have started superannuating. Atleast, the post of Director, Fire and Emergency Services, Gujarat State has been manned recently by two officers who have been stopgap arrangement by being appointed as Acting Director, while actually holding the post of Chief Fire Officer, Ahmedabad and Jamnagar respectively.</p> | | <p>to fire personnel. There is no ban on recruitment for fire personnel.</p> <p>The policy of outsourcing on existing staff set up is a temporary arrangement till the regular recruitment is done of Fire personnel.</p> |
| 150 | 141 | At present the situation in the State Fire and Emergency Services is that if officers from lower rank are promoted, vacancies which arise in the | UDD | The State Government accepts the recommendation with regard to fire personnel. There is no ban on recruitment for fire |

| | | | | |
|-----|-----|--|-----|--|
| | | <p>lower rank remain unfilled. Moreover, even the officers who are promoted, say for example as, Chief Fire Officers have to be given ad - hoc charge by designating them as Acting Chief Fire Officers because they have not completed the requisite period of service for filling up the post. Thus, it has become imperative that the State Government understands the consequences of its faulty / defective policy and immediately takes remedial action by lifting the ban on recruitment in entirety, atleast so far as a disciplined force like Fire Brigade is concerned. Otherwise, the long - term results would be disastrous.</p> | | <p>personnel.</p> <p>The policy of outsourcing on existing staff set up is a temporary arrangement till the regular recruitment is done of Fire personnel.</p> |
| 151 | 142 | <p>In line with the aforesaid recommendation the provisions of Fire Prevention and Life Safety Act, 2013 and the Rules and Regulations thereunder have to be suitably under amended to ensure that fully qualified and trained personnel are available to act as: (1) Supplemental force which works under the local Fire Brigade; and (2) A feeder force qua the vacancies which arise in the local Fire Brigade. The provisions of the aforesaid Act read with the Rules and the Regulations as they stand today merely provide for freelancers, which is not conducive to a good firefighting unit, nor is it conducive to ensuring that all the buildings in the State of Gujarat have proper system in place for prevention of fire and fighting fire, in case of need.</p> | UDD | <p>The State Government accepts the recommendation. Issues are being examined administratively to bring about the suitable changes.</p> |
| 152 | 143 | <p>The policy of recruitment also requires to be reversed for the simple reason that with growing population and rapid urbanization, the area which an existing Fire Brigade is required to handle keeps on expanding on sand all sides without corresponding growth in the strength of the persons manning the Fire Brigade. As the area of a city / town increases, the number of fire stations are also required to be increased. When new fire stations are established not only more man power is needed but there has to be a directly corresponding increase in the number</p> | UDD | <p>The State Government accepts this recommendation. There is no blanket ban on recruitment for fire personnel.</p> |

| | | | | |
|-----|-----|---|--------|--|
| | | of vehicles, firefighting equipment, etc. Hence this is one more reason to give up the faulty / defective policy of a blanket ban on recruitment. | | |
| 153 | 144 | There is likelihood that a contention may be raised that a fire brigade is the responsibility of the local body under whose jurisdiction the fire brigade functions. Nothing can be further from the truth. It is well known and established that the Fire and Emergency Services is a State wide force with Head Quarters at Gandhinagar. Therefore, the said argument is without any basis and should not hold back the State Government from initiating immediate remedial action by revamping and upgrading the entire fire brigade of the State. Only if this is undertaken, would any other measures taken to prevent and fight fires and deal with emergencies yield any positive result. Otherwise, regardless of the number of suggestions / recommendations, there will be no improvement in the existing state of affairs. To the contrary, things will keep on deteriorating. | UDD | The State Government does not accept this recommendation. The Fire Service is a part of Twelfth Schedule of 74 th Constitutional amendment, 1992. The State Government will continue to monitor the performance of fire services in ULBs and provide technical and financial support through Director of Fire Services. |
| 154 | 145 | There is also an economic aspect which the state needs to bear in mind. After every recent incident of fire in nursing homes, where human lives have been lost, the state government has declared ex-gratia compensation which has been paid out of the funds of the exchequer. Why should a common tax payer of the state bear the burden of misdeed or laxity of the management of the nursing home? | Health | The state government gives ex-gratia compensation to persons in case of accidents or in any disaster. Same way ex-gratia compensation is given in case of nursing homes and hospitals. |

| | | | | |
|-----|-----|---|-----|---|
| | | The tax paid in the coffers of the state exchequer is meant to be used for well-being and improvement of the life of every citizen of the state. This is a constitutional obligation so far as the state is concerned. The state must compel the management of the nursing home to bear such burden, otherwise all the people who constitute the management of different nursing homes would carry an impression that even if they do not comply with the requisite provisions of the law, as may be applicable, in case of an unfortunate event taking place the state will compensate the victims who suffer in such unfortunate event. | | |
| 155 | 146 | As already noticed the policy of regularizing illegal construction by payment of a sum, by whatever name called, has to be suitably modified to ensure that atleast premises which are to be used as nursing homes, etc., or the premises which are to be used for the purpose of education should not be premises which are illegally constructed. In other words, no nursing home, etc. or an educational institution should be permitted to operate in illegally constructed premises which are subsequently regularized on payment of a sum, by whatever name called. | UDD | The observations related to the earlier policy of regularization. Since no policy of blanket regularization is presently in existence, this recommendation is not accepted. |
| 156 | 147 | Before one determines applicability of the kind of Fire Extinguishers that should be made compulsory, when Fire Extinguishers are to be installed, the standards prescribed by the Bureau of Indian Standards should be considered. | UDD | The State Government accepts this recommendation. Instructions are to follow the Bureau of Indian Standards strictly. Corrective steps will be taken in case of any lacuna. |
| 157 | 148 | The Bureau of Indian Standards has published IS 2190 in November, 2010. The title is: Indian Standards SELECTION, INSTALLATION AND MAINTENANCE OF FIRST-AID FIRE EXTINGUISHERS- CODE OF PRACTICE (Fourth Revision) | UDD | It is an observation and not recommendation. |
| 158 | 149 | In the FOREWORD it is stated as: "Portable fire extinguishers are not expected to deal with large fires since | UDD | It is an observation and not recommendation. |

| | | | | |
|-----|-----|--|-----|---|
| | | they are essentially first-aid fighting equipment. Nevertheless, they are very valuable in the early stages of a fire when used promptly and effectively. Provision of unsuitable types, incorrect operation, or improper maintenance of the extinguishers have, at times, led to failure in tackling the fire effectively in the early stages, thus involving greater loss of life and property. This standard has, therefore been formulated for giving guidance regarding proper selection, installation and maintenance of portable.” | | |
| 159 | 150 | <p>Under the heading 'GENERAL', paragraph numbers 4.1, 4.2 and 4.3 state as under:</p> <p>"(4.1) None of the extinguisher covered in this standard is expected to deal with a large fire as all these are essentially first-aid fire- fighting appliances. Nevertheless, these are very valuable, if used promptly and efficiently in the early stages of a fire. In addition to the value of their portability and mobility the most important feature these extinguishers is their immediate availability so that each extinguisher can be used by one/two persons. The usefulness of these extinguishers is limited, as it is entirely dependent upon the presence of persons having knowledge to operate them. Furthermore, there capacity is also limited and their optional value largely depends upon the initial charge being sufficient to overcome and extinguish the fire. The capacity of such extinguishers should commensurate with the risk these are intended to cover.</p> <p>4.2 Since a variety of shapes or methods of operation of fire extinguishers have at times led to confusion and failure to quench the fire, it is recommended that extinguishers installed in any one building or single occupancy shall be similar in shape and appearance and should have the same methods of operation, as far as possible. All extinguishers shall be equipped by the same control devises even if their</p> | UDD | The State Government accepts this recommendation. BIS standard will be followed. |

| | | | | |
|-----|-----|---|-----|---|
| | | <p>design is for different types of fire. This will also simplify the training of the large number of employees in the effective and efficient use of extinguishers.</p> <p>4.3 Where employees have not been trained, operations of extinguishers may be seriously delayed, the extinguishing material may be wasted, and more extinguishers may have to be used, or the fire may not be extinguished."</p> | | |
| 160 | 151 | <p>In relation to "SELECTION OF LOCATION", in paragraph 6.9 the requirement which is specified is :</p> <p>"6.9 A framed plan showing the location of fire extinguishers, means of access and other useful information should be displayed at suitable places on each floor, but should be available near to the entrance to the premises preferably at the security gate or the reception office."</p> | UDD | <p>The State Government accepts this recommendation. BIS standard will be followed.</p> |
| 161 | 152 | <p>Paragraph 9 relates to "SELECTION OF FIRE EXTINGUISHERS".</p> <p>It is stated that various types of fire extinguishers have been specified, but all are not equally effective on all types of fires. Hence, for selecting the correct category of fire extinguisher the nature of a building and the use or the process carried out in such building will have to be considered. Therefore, basic types of fires have been grouped into following four broad classes:</p> <p>"a) Class A fires- Fires involving solid combustible materials of organic nature such as wood, paper, rubber, Plastics, etc., where the cooling effect of water is essential for extinction of fires .</p> <p>b) Class B fires- Fires involving flammable liquids or liquefiable solids or the like where a blanketing effect is essential.</p> <p>c) Class C fires- Fires involving flammable gases under pressure including liquefied gases, where it is necessary to inhibit the burning gas at fast rate with an inert gas, powder or vaporizing liquid for extinguishment.</p> <p>d) Class D fires - Fires involving</p> | UDD | <p>The State Government accepts this recommendation. BIS standard will be followed.</p> |

| | | Combustible metals, such as magnesium, aluminum, zinc, sodium, potassium, etc., when the burning metals are reactive to water and water containing agents and in certain cases carbon dioxide, halogenated hydrocarbons and ordinary dry powders. These fires require special media and techniques to extinguish. | | | | | | | | | | | | |
|--------------------|-------------------------|--|--------------------|---|---------------------|---------------|------------------|---------|-------------------------|----|---------|---|-----|---|
| 162 | 153 | <p>In paragraph 10 different types of fire extinguishers are mentioned against each class of fire, which are generally most suited. The same are only for guidance and do not cover special cases.</p> <p>"a) Class A fires - water, foam, ABC dry power and halocarbons. b) Class B fires - Foam, dry, powder, clean agent and carbon dioxide extinguishers. c) Class C fires - Dry powder, clean agent and carbon dioxide extinguishers. d) Class D fires - Extinguishers with special dry powder for metal fires."</p> | UDD | The State Government accepts this recommendation. BIS standard will be followed. | | | | | | | | | | |
| 163 | 154 | <p>Under ANNEXURE B RECOMMENDATIONS FOR INSTALLATION OF FIRE EXTINGUISHERS ' are stipulated. The table in the said ANNEXURE lays down Class of Occupancy, Type of Occupancy, Nature of Occupancy, Class of Fire and Typical Examples. Under this it is stated in relation to Group C, i.e. Class of Occupancy:</p> <table border="1" data-bbox="363 1420 868 1975"> <thead> <tr> <th>Class of occupancy</th> <th>Type of Occupancy</th> <th>Nature of Occupancy</th> <th>Class of Fire</th> <th>Typical Examples</th> </tr> </thead> <tbody> <tr> <td>Group C</td> <td>Institutional buildings</td> <td>MH</td> <td>Class A</td> <td>Hospitals, sanatoria, homes for aged, orphanage</td> </tr> </tbody> </table> <p>However, though the Nature of</p> | Class of occupancy | Type of Occupancy | Nature of Occupancy | Class of Fire | Typical Examples | Group C | Institutional buildings | MH | Class A | Hospitals, sanatoria, homes for aged, orphanage | UDD | The State Government does not accept this recommendation. BIS standard will be followed. |
| Class of occupancy | Type of Occupancy | Nature of Occupancy | Class of Fire | Typical Examples | | | | | | | | | | |
| Group C | Institutional buildings | MH | Class A | Hospitals, sanatoria, homes for aged, orphanage | | | | | | | | | | |

| | | | | |
|-----|-----|--|-----|--|
| | | Occupancy is shown as falling under category 'MEDIUM HAZARD', in a Hospital having intensive care unit wherein supply of oxygen is continuous or constant, either by way of a pipe line or by way of cylinders, the Nature of Occupancy should be upgraded to 'HIGH HAZARD' from 'MEDIUM HAZARD', and the Class of Fire should be upgraded to Class C from Class A. | | |
| 164 | 155 | In fact, both the incidents of Fire at Ahmedabad and Rajkot have shown that, apart from the fact that the staff on duty was not trained to fight fire and deal with emergency, it was the supply of oxygen which was instrumental in the fire going out of control. Hence, the aforesaid recommendation to upgrade the Nature of Occupancy and the Class of Fire. | UDD | <p>The State Government does not accept this recommendation.</p> <p>The State Government will follow the BIS Standard. However, during the pandemic wave, special measures will be taken such as frequent inspections of hospitals, regular trainings, appointment of Nodal Officers, frequent Mock Drill and if required, deployment of trained fire personnel.</p> |
| 165 | 156 | <p>Paragraph 11 deals with 'INSPECTION AND MAINTENANCE OF FIRE EXTINGUISHERS'. Thereunder, vide paragraph number 11.10 General Safety Precautions for Maintenance have been prescribed. Therein paragraph 11.12 deals with the requirement of monthly inspection in the following words:</p> <p>"11.12 The maintenance, inspection and testing of all extinguisher in respect of mechanical parts, extinguishing media and expelling means should be carried out by properly trained and competent personnel at frequent intervals, but at least once a month , to ensure that these are in their proper condition and have not been accidentally discharged or lost pressure or suffered damage. Regular inspection of all extinguishers and their components like spare cartridges and refills kept in the stores should also be done to ensure that</p> | UDD | <p>The State Government accepts this recommendation. BIS standard will be followed.</p> |

| | | | | |
|-----|-----|---|-----|---|
| | | these are in proper condition and fit for use." (emphasis supplied) | | |
| 166 | 157 | The procedure for quarterly maintenance is laid down in paragraph 11.13. Paragraph 11.14 prescribes that over and above the quarterly inspection, all the extinguishers shall be subjected to a more thorough inspection at least once in a year. However, it is further stated that advantage should be taken of this annual inspection to train personnel in the operation of extinguishers. | UDD | The State Government accepts this recommendation. BIS standard will be followed. |
| 167 | 158 | To ensure that fire extinguishers are effective, proper maintenance is essential. Paragraph 11.12 stipulates procedure for monthly maintenance. The procedure for quarterly maintenance is laid down in paragraph 11.13. Over and above the monthly and the quarterly maintenance all the fire extinguishers have to be more thoroughly inspected at least once every year. | UDD | The State Government accepts this recommendation. BIS standard will be followed. |
| 168 | 159 | Annexure 'D' pertains to refilling schedule for fire extinguishers and schedule for operational test on fire extinguishers. Annexure 'E' lays down schedule for hydraulic pressure testing of fire extinguishers. However, the periods mentioned in the said schedules cannot be used to defer or delay the maintenance and inspection stipulated by Paragraphs No. 11.12, 11.13 and 11.14 which provide for monthly, quarterly, and annual inspection respectively. For the purpose of prevention of fires the maintenance and inspection have to be carried out at the specified interval. It is necessary that this requirement is incorporated immediately so as to become applicable to all buildings, with special reference to premises which run hospitals, nursing homes etc. Merely because the life of fire extinguishers as per the table at Annexure 'F' is for a longer period, that cannot be a ground for not carrying out the maintenance and inspection at the specified intervals. Moreover, there has to be a system, a | UDD | The State Government accepts this recommendation. BIS standard will be followed. |

| | | | | |
|-----|-----|--|-----|---|
| | | procedure which ensures that the maintenance and inspections required to be carried out at monthly, quarterly and annual intervals are actually carried out. | | |
| 169 | 160 | During the course of the Inquiry undertaken by This Commission it has been noticed that as per the present prevalent procedure the fire brigade of the concerned Municipal Corporation issues a NOC on the basis of either what is stated by the management, or on the basis of an affidavit filed by the dealer / agency who supplies the fire extinguishers. Same is the position in relation to the capacity of underground and overhead water tanks. Uday Shivanand Hospital, Rajkot is a perfect example as regards such discrepancy. The fire brigade is handicapped due to shortage of staff and is not in a position to even make a random surprise check. | UDD | It is an observation. The State Government is making efforts to recruit staff against vacancies in ULBs to strengthen fire services. |
| 170 | 161 | This position also prevails in so far as the training to fight fires, which is to be given to the staff of the hospitals, is concerned. On paper the dealer / agency states that training is given to the staff members, and the management, at the highest, gives in writing names of a few staff members who are stated to have been allegedly trained. | UDD | It is an observation. There is no specific recommendation. However, focus will be placed on training and Mock Drill to strengthen the Fire Fighting capacity of the primary responders. |
| 171 | 162 | By way of illustration, in the case of Uday Shivanand Hospital, Rajkot, the management gave in writing names of four persons alleged to have been trained in firefighting. The fire brigade was satisfied by obtaining such a written communication from the management; and the fire brigade placed reliance on the said communication to defend itself for stating that the staff had been trained in firefighting. | UDD | It is an observation. There is no specific recommendation. However, focus will be placed on training and Mock Drill to strengthen the Fire Fighting capacity of the primary responders. |
| 172 | 163 | Similarly, in so far as Shrey Hospital, Ahmedabad is concerned, reliance has been placed both by the hospital management and the authorities, on certain photographs produced by the management and placed on record. It became apparent when the persons, | UDD | It is an observation. There is no specific recommendation. However, focus will be placed on training and Mock Drill to strengthen the Fire Fighting capacity of the primary responders. |

| | | | | |
|-----|-----|--|-----|---|
| | | who were on duty in the ICU ward on the day and time of the Incident of Fire, were examined, that except for one member of the nursing staff all others had joined the hospital recently and were not a part of the group who were alleged to have been trained. | | |
| 173 | 164 | Furthermore, the kind of training which is said to have been given to the staff members of the hospital itself indicates that none of the persons involved, are serious and sincere about the actual training. The management thinks it is not profitable; the dealer / agency who is supposed to impart training has no interest and merely goes through the motions so that his bill for supply of the equipment is cleared and paid by the management. Moreover, by way of training the dealer / agency, through its representative merely shows and speaks how to operate a fire extinguisher without any of the staff members even actually handling the equipment, much less operating the same. This was categorically stated by a staff member of Uday Shivanand Hospital, Rajkot during the course of his deposition. | UDD | It is an observation. There is no specific recommendation. However, focus will be placed on training and Mock Drill to strengthen the Fire Fighting capacity of the primary responders. |
| 174 | 165 | There is one more aspect of the matter. The human psyche is that, a person always thinks that he / she will never have to face an emergency so as to either fight fires or save life in case of a sudden fire. Therefore also, when training is imparted there is no interest or real intent to learn. | UDD | It is an observation. There is no specific recommendation. However, focus will be placed on training and Mock Drill to strengthen the Fire Fighting capacity of the primary responders. |
| 175 | 166 | Another aspect is, that even if actual training is imparted, handling and operation of the fire - fighting equipment is not something which a person would be able to undertake in a case of actual emergency. At the level of mental preparedness, there has to be a willingness to fight against various odds occurring during the actual incident. In other words, a person has to be mentally strong enough to stand up and face the problem, even if it means that an injury may occur to such a person. On the other hand, there has to be physical capability. | UDD | It is an observation. There is no specific recommendation. However, focus will be placed on training and Mock Drill to strengthen the Fire Fighting capacity of the primary responders. |

| | | | | |
|-----|-----|---|-----|---|
| | | Removing a fire extinguisher from its wall mounting, carrying to the site of the fire and actually operating the equipment to douse the fire requires a certain amount of minimum physical strength. | | |
| 176 | 167 | All this assumes importance in light of the fact that for building the mental and physical capacity there has to be repeated stints of actual fire drill. A person must be called upon to handle, carry and operate the equipment from the place where the equipment is located to the site of fire. Simultaneously, the presence of mind is required to ensure that the damage to property is not given precedence over saving of life. | UDD | It is an observation. There is no specific recommendation. However, focus will be placed on training and Mock Drill to strengthen the Fire Fighting capacity of the primary responders. |
| 177 | 168 | In light of what is stated hereinbefore, mere Installation of Fire - fighting equipment or having a valid NOC is neither going to prevent fires, nor is such NOC/installation going to fight fires, nor is it going to save life and/or property. The government would be well advised to bear the aforesaid factors in mind when a policy is framed for the purpose of prevention of the fire and saving of life. Any policy which overlooks or ignores these factors would not be effective, even though on paper the policy would appear to be very attractive. While framing any policy in relation to prevention of fire, fighting of fire and saving of life is concerned, the policy has to be divided into three categories. In the first category the consideration has to be short term resolution of problem, i.e. deal with immediate issues in the present. The second category has to relate to a medium term. In other words, lay down solutions which can be implemented, are possible to implement, over a medium range of period. The last category would be the steps on a long - term basis. This would include planning for the future in relation to new buildings that may be coming up or are likely to come up. However, by only looking at a long - term solution the government will not | UDD | The State Government accepts this recommendation. As per the recommendation, the State Government will prepare a policy considering the short term, medium and long term scenarios with a view to mitigate the risk and improve the Fire Fighting capacity. |

| | | | | |
|-----|-----|--|-----|--|
| | | be able to wish away the issues/problems which the government is facing today. | | |
| 178 | 169 | Installation of Fire Extinguishers is only one part of the solution. Unfortunately, today many small and medium size hospitals are functioning in Commercial Buildings that are not meant to be used by the Health Care Centers. For the purpose of long-term safety there have to be structural changes, revamping of electrical load, including wiring and then the installation of the Fire Safety Equipment. | UDD | Partially accepted. All hospitals will be required to take the Fire NOC. This may be possible even without structural changes in the building. |
| 179 | 170 | As already noticed, not only are nursing homes/hospitals functioning in Commercial Buildings, but even in cases, where there is no mixed occupancy, such nursing homes, etc. are functioning in, admittedly illegal buildings just on payment of regularization fees. The State has to ensure that all such nursing homes/hospitals, etc. located or functioning in buildings which are not meant to be used for Health Care purposes, should be nudged to shift to legally constructed premises, even in existing buildings were the specifications by and large, confirm to, or/are as near to the parameters stipulated by the National Building Code. It is understandable that the specifications prescribed by NBC cannot be made applicable to existing buildings immediately and in entirety. However, the State must give priority to nursing homes and hospitals in the first instance, and thereafter second in order of priority should be Schools and all other Educational Institutions. For the changes to take place one has to make a beginning, bearing in mind that COVID-19 has not disappeared. May be at present the Indian Scenario cannot be described as a pandemic situation, but at the same time one cannot take things easy and revert back to old ways of letting things be as they are. | UDD | This recommendation is not accepted. However, all hospitals will be required to take the Fire NOC. This may be possible even without structural changes in the building. |
| 180 | 171 | In private clinics/nursing homes where there are structural problems the State | UDD | This recommendation is not accepted. However, no |

| | | | | |
|-----|-----|--|--------------|---|
| | | can formulate a policy of starting with clinics where there are ICU's having capacities of 5 (five) or less than 5 (five) beds. Subsequently the nursing homes/hospitals can be identified where the ICU's have beds going upwards in figures. | | compromise will be made on Fire Safety. |
| 181 | 172 | There have to be 2 (two) staircases for Emergency Exit but at present many hospitals have only 1 (one) staircase and that too with a width less than the required width of 2 (two) meters. Identifying such buildings/nursing homes situated in mixed occupancy commercial buildings will be the first requirement before any provision for a second staircase having enough width can be made. Shrey Hospital, Ahmedabad is a classic case where this is not possible. Firstly, the building is an illegal premise, given permission to run a nursing home/hospital only on payment of regularization/impact fees. Hence, it does not have enough space/area where a second staircase can be constructed. | UDD / Health | Accepted with prospective effect. This will be done for Fire NOCs issued henceforth for new hospitals. |
| 182 | 173 | Even in case where there are 2 (two) Elevators, in absence of a separate, standby power source the second elevator is of no use because in case of a fire emergency the first thing that happens is electric supply gets cut off, or has to be shut down so as to prevent the fire from spreading through the electrical cables. | UDD / Health | It is an observation. No specific recommendation. However, license shall be obtained for lifts and should be renewed regularly. |
| 183 | 174 | Another problem area is obstructions created in the premises itself by temporary structures to bifurcate COVID-19 designated areas and Non-COVID areas; second problem is obstructions at the ground level, more particularly in margin area. If any example is required, Shrey Hospital is such an example. The near margin and margin on one side are covered and obstructed due to the said area having been allotted to a catering contractor. On the rear side there is a kitchen which contains LPG Gas Cylinders, Microwave Ovens and a sunken area for cleaning utensils, which is just next to the underground water tank. | UDD / Health | The State Government accepts this recommendation. It is the duty of the owner / occupier to ensure the adequate fire safety measures. |

| | | | | |
|-----|-----|---|--------------|--|
| | | <p>The side margin area is filled up with tables and chairs where beverages and eatables are served. This assumes importance in light of the fact that if Fire Brigade would have has access to the side margin area possibly, they might have had precious seconds in which they could have broken into ICU from outside. As the facts have revealed due to dense black smoke Fire Brigade personnel could not enter the ICU because there were 2 (two) sets of doors between which there was a vacant passage area, and there were no signages or any diagram indicating the layout. The Fire Brigade personnel were therefore forced to go to the top, climb down from the terrace with the help of a rope, break open glass windows resulting in the unfortunate delay causing death of 7 (seven) out of 8 (eight) patents due to asphyxiation.</p> | | |
| 184 | 175 | <p>The next thing which requires to be addressed is the use of false ceilings which leaves less space for smoke to travel upwards. Such trapped smoke at eye level not only hampers firefighting operations but causes asphyxia. The false ceiling also leaves less space for heat to spread resulting in burn injuries in lungs even without there being any direct contract with the fire itself. This has happened both in case of patients in ICU of Shrey Hospital, Ahmedabad and ICU of Uday Shivanand Hospital, Rajkot.</p> | UDD / Health | <p>Accepted with prospective effect. This will be ensured in case of hospitals before Fire NOC is issued henceforth.</p> |
| 185 | 176 | <p>Considering that the intensity of COVID-19 has substantially reduced and number of hospitals which were designated as COVID hospitals have been derequisitioned (as at the time of drafting this report), the Government would be well advised to consult Senior Fire Brigade personnel and seek their opinion as to which of hospitals can in future be designated/requisitioned in case of an epidemic. Furthermore, all the officers who are empowered, in future, to take appropriate measures under the Epidemic Diseases Act should be required to consult the senior most fire</p> | UDD / Health | <p>The State Government accepts this recommendation. Fire brigade officers will be consulted before designating / requisitioning of hospitals.</p> |

| | | | | |
|-----|-----|---|--------------|--|
| | | brigade officer in their jurisdiction before making an order of requisition. | | |
| 186 | 177 | Amongst the immediate measures that can be initiated are removal of obstructions in the staircases, removal of glass facades and grills which are likely to prove hindrance in firefighting. | UDD / Health | The State Government accepts this recommendation. The State Government will take all the needed actions to remove these problems |
| 187 | 178 | While taking care of these structural issues referred above, one major issue is installation of automatic fire alarms linked with smoke detectors and automatic sprinkler system. This is an appropriate time when atleast these changes can be carried out when there is no load on the ICUs. | UDD / Health | The State Government accepts this recommendation. Competent Authority will implement Gujarat fire preventions and life safety measures Act 2013 in all nursing homes and hospitals prospective. |
| 188 | 179 | The facts and evidence in both the incidents of fire at Ahmedabad and Rajkot have shown that even when fire extinguishers have been installed, firstly the location is not appropriate. Secondly, and this is more important, the incapability of the health care staff to operate the fire extinguishers while wearing PPE Kits, and even without such kits. There has to be a long-term policy for compulsory fire training to the health care staff. This aspect has been dealt with in detail while referring to the selection, installation and maintenance of fire extinguishers hereinbefore. | UDD / Health | The State Government accepts this recommendation. To train the health care staff in operationalization of fire safety equipments long term policy will be made |
| 189 | 180 | A particular way out for dealing with this is, there should be qualified fire fighters appointed at hospitals to lead firefighting before the fire brigade personnel arrive at the scene of fire. Such qualified firefighters can be hired as either security staff, or staff who are required to undertake cleaning and maintenance operations. The caveat is, there should be repeated training by actual stints of fire drill. Just as mere installation of fire extinguishers is not going to prevent or fight fires, similarly mere hiring of qualified staff cannot be sufficient if they do not undertake actual physical firefighting drill may be a mock drill, but the same has to be a regular feature at certain intervals, and also on an emergency surprise basis | UDD /Health | The State Government accepts this recommendation. Long term policy will be made to train the hospital staff. Regular and intensive training will be provided to hospital staff and Mock Drill will be carried out. |

| | | | | |
|-----|-----|---|-----------------|--|
| 190 | 181 | So far as electrical connections are concerned first and foremost requirement is to ensure that not only appropriate load is sanctioned and obtained, but commensurate wiring involving cables and electrical sockets and switches, etc. which emit low smoke have to be used. | Energy | The State Government accepts this recommendation partially. Low smoke emitting cables will be a condition in new hospitals. |
| 191 | 182 | One more issue on which attention is required to be focused is loose connection, more particularly in case of plug and sockets, which is either as a result of different sizes, or the plug and the sockets are mismatched. An example is use of 15 Amperes equipment in 5 Ampere sockets. Similarly use of multiple plugs in a socket having multiple outlets should be prohibited. Even use of extension cords, which basically is only a temporary arrangement, cannot be permitted on a long-term basis. It has been found that extension cords are employed to plug-in multiple electrical equipments. | Energy | The State Government accepts this recommendation. The hospital authorities are being directed to avoid loose or mismatch electrical connections particularly in case of plug and sockets involving different sizes. The said authorities have been directed to carry out modification required to remove all extension cords. |
| 192 | 183 | All MCBs (Miniature Circuit Breaker) have to be replaced by ELCBs (Earth Leakage Circuit Breaker). Furthermore, use of 100 mA switches instead of 30 mA switches prevents tripping in case of small spikes in power supply. This is ill-advised, especially for hospitals and more particularly ICUs having oxygen rich environment. | Energy | The State Government partially accepts this recommendation. Instead of 100ma ELCB, 30Ma ELCB's shall be substituted. However, all MCBs are not to be replaced by ELCBs because the function of MCB and ELCB are different. |
| 193 | 184 | Lastly, the most important. There is no policy to change or replace ventilators and other critical medical equipments which use electrical power. They are being used 24x7 on patient after patient without any break resulting in overheating of the internal wiring, or their circuits, or other components like sensors. In case of Shrey Hospital, Ahmedabad Sparking (short-circuit) took place monitor and in case of Uday Shivanand Hospital, Rajkot sparking (short-circuit) took place in a thermos sensor located in the oxygen/air pipe/tube proceeding (which supplies from ventilator to the | Energy / Health | This is a policy issue. The State Government will examine it further. |

| | | | | |
|-----|-----|---|-------------|---|
| | | patients. | | |
| 194 | 185 | <p>There has to be a system in place to ensure that the record of medical equipments which are in use in ICUs is available, especially before a nursing home/hospital is requisitioned by the Government in case of emergency. Availability of such record would be helpful to determine whether the said medical equipment is within the reasonably valid period of effective functional life of that equipment. Maintenance of such record can be effected by ensuring that the nursing home/hospital places the details at the time of obtaining registration or yearly renewal of registration. Such records can be simultaneously linked with the annual application for Fire NOC or Fire Safety Certificate. This will ensure that there is cross verification of the details which come on record relating to a particular nursing home/hospital. A requisite software for this purpose should be custom made and compulsorily installed across the State linking the Fire & Emergency Services and Health Care Services. Just as a policy is recently being put in place to phase out old vehicles to control pollution, a similar policy should be framed and put in place to ensure that medical equipments like patient monitors, ventilators, etc. are phased out or replaced at the end of 5 (five) years. This will reduce the chances of any short-circuit taking place.</p> | Health /UDD | <p>Life of the medical equipments is shown in the para. MIS will be prepared to regularise life span of the medical equipments. Nursing homes and Hospitals will ask to give this information</p> |
| 195 | 186 | <p>There is one more aspect of the matter which requires serious consideration. In case of Shrey Hospital, Ahmedabad NOC was issued on 04.04.2019 and the same was valid upto 30.04.2020. The hospital had already been closed down, and started functioning w.e.f. 23/24.05.2020 after being requisitioned for treating COVID-19 patients. Thus, on the day the hospital started functioning, there was no valid NOC regarding fire, despite which an Order of requisition was made without</p> | Health | <p>This is a policy issue. The State Government will notify the covid 19 hospitals and nursing homes,if they follow all the rules and the notifications.</p> |

| | | | |
|--|---|--|--|
| | <p>due verification. In these circumstances, the reliance by the management of Shrey Hospital, Ahmedabad on the General Circular issued by Government of India, Ministry of Housing and Urban Affairs vide notification no. K-14011/12/2020-AMRUT-IIA dated 28.05.2020, which extended the validity of various NOCs for 6 (Six) months from 25.03.2020, is misplaced. In the first instance, the said circular was primarily issued in the context of Housing Projects; Secondly, if the Fire NOC had expired and/or the validity of the fire equipment, i.e. functional life of fire extinguishers itself has expired, mere extension of the period of NOC cannot help as mere extension of date will not extinguish an actual fire. Therefore, in future while requisitioning a premise during a pandemic, a guideline should be available to determine whether a given nursing home/hospital should be requisitioned or not. The building should not be illegal; should have valid registration under The Clinical Establishments Act; should have valid fire safety certificate based on firefighting equipment which is having effective functional life; and, the fire safety certificate should also ensure that the critical medical equipments are within the effective functional life period of such equipments. The nursing home / hospital should also have trained persons who can act in time of emergency, and such persons should be available 24x7 by being assigned duties in reasonable shifts.</p> | | |
|--|---|--|--|