

**CIVIL APPELLATE**

*Before the Hon'ble Mr. Justice K. J. Vaidya.*

BHAVNAGAR SALT & INDUSTRIAL WORKS PVT. LTD. v.  
GUJARAT ELECTRICITY BOARD, BHAVNAGAR & ORS.\*

**PRACTICE AND PROCEDURE - Any observation or criticism of any person, Statutory authority, Board, Corporation, Institutions and Organisations made in Court judgments must be communicated to the concerned public authority in charge of the affairs.**

Though the approach and attitude of the trial Court in forthright criticism of the prevailing dismal state of affairs in the administration of the G. E. Board, Bhavnagar, being in the highest public interest, deserves to be duly appreciated, but that by itself does not appear to be enough, enough to be enough in the absence of same being communicated to the concerned higher ups in the office of the G. E. Board. Mere criticism and observation upon some irregular and/or illegal and/or unjust actions, omissions, procedures, judgment and orders in the judgment by itself is hardly of any use as the same may remain lifeless cold prints on the pages of the judgments simply burdening the stationary and public time. When Court makes any observation or criticism of any person, statutory authority, Board, Corporations, Institutions and Organisations, it makes obviously in the ultimate public interest and the same are not made just for the sake of making it. When that is so, its critical observations must mean business to be meaningful enough to be communicated to be considered by the concerned public authority in charge of the affairs.

Any Court coming to know during any proceedings before it, of any undisputable and reliable facts bringing to light grave scandal in the matter of public revenue, corruption, mal-administration and mal-practice in any Government or statutory body must not only express its forthright condemnation in the judgment keeping in dignity with judicial grace and tradition, but should also send a copy of the judgment to the appropriate authority for necessary information and consideration.

*K. S. Nanavati*, for the Appellant.

*M. A. Panchal*, for the Respondents.

**VAIDYA, J.** [His Lordship after stating the facts of the case, further observed :]

2. Briefly, the appellant-plaintiff namely Bhavnagar Salt & Industrial Works Pvt. Ltd. (for short referred to as the plaintiff-Salt Works Company) filed as a suit, the same being Special Civil Suit No. 29 of 1987 in the Court of the learned Civil Judge (S.D.), Bhavnagar against the respondent-defendant (for short hereafter referred to as the defendant G. E. Board) and two others, *inter alia*, praying for a declaration that two bills that of (i) first consolidated bill dated 7-7-1986 for a period from November 1983 to June 1986, and (ii) a revised bill dated 25-7-1986 being arbitrary and illegal were not binding and that the defendant-G. E. Board was not entitled to recover the said disputed bill; and for a permanent injunction against disconnection of electric supply for not depositing the disputed bill amount with the defendant-G. E. Board. The plaintiff-Salt Works Company also filed an application Exh. 5 for the

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\*Decided on 17-1-1990. Appeal From Order No. 324 of 1989 against the order dated 11-9-1989 passed by 3rd Joint Civil Judge (S.D.), Bhavnagar.

(Only a part of the Judgment approved for reporting is published.)

interim injunction which was granted by the trial Court on a condition that the plaintiff-Salt Works Company will pay up the outstanding bill amount to the tune of Rs. 1,59,323-26 ps. (Rupees one lac fiftynine thousand three hundred twenty three and Paise twenty six only) in the office of the defendant-G. E. Board on or before 1989.

3. Feeling aggrieved and dissatisfied by the impugned conditional interim injunction order below Ex. 5, the plaintiff-Salt Works Co. has preferred the present Appeal From Order before this Court.

4. I have been told at the Bar by Mr. K. S. Nanavati, learned Advocate for the plaintiff-Salt Works Co., that so far, out of the total outstanding bill amount of Rs. 1,59,323-26 ps., only, his client has by various installments, in all deposited Rs. 1,16,447-75 ps., only to the defendant-G. E. Board leaving behind the balance of Rs. 42,885-51 ps., unpaid to the defendant-G. E. Board. Mr. M. A. Panchal, the learned Advocate for the respondent-defendant has not disputed the same.

5. Mr. Nanavati, the learned Advocate for appellant-plaintiff has made a serious grievance regarding the arbitrary and illegal way of saddling the plaintiff's-Salt Works Company with huge bill liability to the tune of Rs. 1,59,323-26 ps. Mr. Nanavati in order to make good this submission, has relied upon certain observations made by the trial Court itself in para-10 of its judgment where the trial Court has severely criticised the gross inaction of the defendant-G. E. Board for 32 months in not taking the meter reading and sending the bills pursuant to that to the plaintiff-Salt Works Company right from November 1983 till June 1986. In the said para the trial Court has also observed that the time has ripened for the defendant-G. E. Board to take appropriate stern action against the delinquent officers in order to regularise and set right the administration in the Board.

6. As against the above, Mr. Panchal, the learned Advocate appearing for the defendant-G. E. Board submitted that the trial Court has rightly exercised its judicial discretion in granting the conditional interim injunction in favour of the plaintiff-Salt Works Company and that no case has been made out by the appellant-plaintiff calling for any interference by this Court at this interim stage of the proceedings. Mr. Panchal also invited my attention to certain relevant paragraphs and in particular Para-11 of the impugned judgment and order wherein the trial Court has commented upon the unworthy conduct of the plaintiff-Salt Works Company which is a Private Limited Company registered under the provisions of the Companies Act, in not taking any care to complain before the defendant-G. E. Board regarding not reading of the electric meters and receipt of the bills for the electric consumption made by it despite taking the advantage of producing the salt with the help of electricity of the Board.

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9. While parting, I cannot help referring to the observations made by the trial Court in paras 10, 11 and 12 of its judgment, which if they are true, (and indeed *prima-facie* I have no reason for doubting the same) then indeed, to say the least are just stunning and shocking.

10. Though the approach and attitude of the trial Court in forthright criticism of the prevailing dismal state of affairs in the administration of the G. E. Board, Bhavnagar, being in the highest public interest, deserves to be duly appreciated, but that by itself does not appear to be enough, enough to be enough in the absence of same being communicated to the concerned higher ups in the office of the G. E. Board. Therefore, the trial Court ought to have taken a step further by sending a copy of its judgment to the chairperson of the G. E. Board for necessary information and consideration. It appears to me that mere criticism and observation upon some irregular and/or illegal and/or unjust actions, omissions, procedures, judgment and orders in the judgment by itself is hardly of any use as the same may remain lifeless cold prints on the pages of the judgments simply burdening the stationery and public time. When Court makes any observation or criticism of any person, Statutory authority, Board, Corporations, Institutions and Organisations, it makes obviously in the ultimate public interest and the same are not made just for the sake of making it. When that is so, its critical observations must mean business to be meaningful enough to be communicated to be considered by the concerned public authority in charge of the affairs. In the case at hand, the trial Court having noticed the darkness at noon in the administration of G. E. Board, Bhavnagar, should not have rest contented by merely stopping at the critical observations in its judgment, but rather should have further activated itself by forwarding a copy of the said judgment to the appropriate authority for necessary information and consideration.

11. In such types of cases where the public and national interest has a direct concern, I am of the firm opinion that once any Court during the proceedings before it comes across any undisputable and reliable facts bringing to the light the grave scandles in the matter of public revenue, corruptions, mal-administration and the mal-practices in any of the Government or statutory bodies or anything of such a nature, which seriously undermines or is likely to undermine and/or is detrimental and against the overall public and national interest of importance, then in that case, it cannot afford to be a mere spectator and/or at the most an arm chair critic, rather it should be first and foremost duty of such Courts first to express-out its forthright and righteous condemnation and indignation in its judgment without slightly even losing its usual touch of flair and flavour of humility, restraint, dignity and grace of the judicial image and tradition, and secondly, then to send a copy of the said judgment to the appropriate authority for necessary information and consideration. To say the least, not to do so in proper cases, to my mind, would be not discharging the judicial duty to the extent it is ordinarily expected of.

(Rest of the Judgment is not material for the Reports.)

*Order accordingly.*

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