

Extract: SEWA files Public Interest Litigation to appoint a High Powered Committee to frame a policy and mandatory rules for preserving and enhancing employment of waste pickers all over India. This can be done by integrating them into city and solid waste management policies with special reference to the right to work and life of women as well as the Valmiki and Dalit community. The PIL filed in the High Court of Gujarat can be studied below.

**THE RESULTS
IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

SPECIAL CIVIL APPLICATION NO.

OF 2009

In the matter of Articles 14, 15(3) and 15(4), 19(1)(c) and (g), Article 21 read with Articles 38(1), 39(a), 39(c), 39(e), 41, 43 of the Constitution of India;

AND

In the matter between:

Swashrayi Mahila Seva Sangh (SEWA)
a Trade Union registered under
The Trade Unions Act, 1926,
having its Office at:
SEWA Reception Centre,
Opposite Victoria Garden,
Bhadra, Ahmedabad 380001

... Petitioner

Versus

1. Ahmedabad Municipal Corporation
its process be served on
the Municipal Commissioner,
At: Office of Ahmedabad Municipal Corporation
Sardar Bhavan, Gol Limda,
Ahmedabad 380001
2. Ahmedabad Urban Development Authority
its process be served on
Chief Executive Officer
At: Usmanpura, Ahmedabad 380013
3. State of Gujarat
its process be served on

Secretary,
Ministry of Urban Development,
New Sachivalaya, Gandhinagar

4. Union of India
its process be served on
Secretary,
Ministry of Urban Development and
Poverty Alleviation,
Shashtri Bhavan, Parliamentary Street,
New Delhi
5. Union of India
its process be served on
Secretary,
Ministry of Labour and Employment,
Shram Shakti Bhavan,
Raffi Marg, New Delhi 110 001
6. Union of India
its process be served on
Secretary,
Ministry of Environment and Forest,
Paryavaran Bhavan,
CGO Complex, Lodhi Road,
New Delhi - 110 003
7. Jawaharlal Nehru National
Urban Renewal Mission
its process be served on
The Under Secretary
JNNURM Cell
JNNURM Mission Directorate
Ministry of Urban Development
Gate No. 2, Ground Floor,
Nirman Bhawan
Maulana Azad Road,
New Delhi 110 011
8. Jigar Transport Co.
having its office at:
Shop No B- 13/14 New Bombay Market,
Varacha Road, Surat ... Respondents

To,
The Hon'ble Chief Justice
and other Hon'ble Judges

of the High Court of Gujarat
at Ahmedabad

The humble petition of the
Petitioner abovenamed:

MOST RESPECTFULLY SHEWETH:

1. The Petitioner is filing this Public Interest Litigation (hereinafter referred to as "the PIL") under Articles 14, 15(3) and 15(4), 19(1)(c) and (g), Article 21 read with Articles 38(1), 39(a), 39(c), 39(e), 41, 43 of the Constitution of India for a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ direction and order commanding Respondents no.1 to 6 to appoint a High Powered Committee to frame a policy and mandatory rules for preserving and enhancing employment of waste pickers all over India by integrating them into city and solid waste management policies with special reference to the right to work and life of women and Valmiki and Dalit community. Such policy and mandatory rules could be in lines of what is suggested by the Petitioner hereinafter. The Petitioner also prays for a direction to the Respondent no.1 and 2 to invite tenders in respect of any area or ward within their jurisdiction for waste picking giving precedents to co-operative societies whose women members are involved only in waste picking and belonging to Valmiki and Dalit society. The Petitioner also prays for quashing and setting aside the decision of the Respondent no.1 pursuant to the resolution No.356 of the Standing Committee dated 02.07.2009 and permanently restraining the Respondent no.1 from awarding the work of waste picking by contract or otherwise to the Respondent no.8 or any such

other private organization in respect to Vejalpur area of the city of Ahmedabad with effect from 01.10.2009 or any other date. The Petitioner also prays for consequential interim reliefs.

2. Women working in the informal sector can be categorized into three groups: (1) Home based women workers such as Bidi Rollers, Agarbatti Rollers, Kite makers, artisans, weavers etc., (2) Street Vendors such as vegetable vendors, fish vendors, fruit vendors, old cloth sellers etc., (3) Labour and Service Providers such as waste pickers, agricultural workers, tobacco processors, construction workers, head loaders, handcart pullers etc. The Petitioner (also referred to as “SEWA” in the petition) was established in 1972 and is registered as a Trade Union under The Trade Unions Act, 1926. It was formed with a view to secure the rights of the women working in the informal sector. It is a Central Trade Union Organization having membership base of 9,66,139 women workers in 7 States of India. The Petitioner being a Union registered under the Trade Unions Act enrolls women workers of the informal economy as its members. The Petitioner is a confluence of 3 movements; the labour movement, the co-operative movement and the women’s movement. It is a movement of self-employed workers. It is a homegrown movement with women as its leaders. The workers of the informal sector need a collective, organized strength to actively participate at various levels in the planning, implementation and monitoring process of the programmes meant for them and also in all other affairs of the nation. The Petitioner’s goal is to organize women workers of the informal sector for full employment and self-reliance. By full employment, the Petitioner means, employment whereby workers obtain work security, income

security, food security and social security i.e. healthcare, childcare and shelter. By self-reliance, the Petitioner means, that women should be autonomous and self-reliant individually and collectively both economically and in terms of decision making ability. The Petitioner organizes women to achieve the above goals through the strategy of struggle and development activities. The struggle is against many constraints and limitations imposed on them by society and the development activities are the activities whereby women's bargaining power is strengthened by offering them varied and new alternatives of livelihood. This strategy is carried out through the joint action of organizing members working in different trades and forming their co-operatives. As pointed hereinafter co-operatives play a very vital role in generating employment for its members and secure them a steady flow of income. The Petitioner in these 36 years of functioning has organized members of 124 different trades and has also encouraged formations of more than 100 co-operatives and other economic organizations. The Petitioner has also encouraged and promoted a federal co-operative society of these 100 co-operative societies namely Gujarat State Women's Sewa Cooperative Federation Limited. The Petitioner in this way has been supporting its members in capacity building and in development of their economic organizations such as co-operatives. This helps in strengthening women's leadership, their confidence, their bargaining power within and outside home and their representation in policy making and decision making.

3. The Petitioner submits that while the Petitioner is a trade union registered under The Trade Unions Act, the most adequate model for generating employment and income for the women working in the informal sector is to form their co-

operatives. Co-operation is a powerful tool for development. Formation of capital is easier and rapid in co-operative enterprises, if properly established and managed. While co-operative movement is seen in various sectors such as banking, credit, marketing, housing and transport, its essential content is co-operative production. The members of a co-operative would contribute towards the means of production and share them jointly. The effort would be to improve the means of production through co-operation in order to arrive at a higher rate of production and income and also in turn generate more employment. The Petitioner submits that trade union and co-operatives are the two structures which satisfy the needs of women workers and small producers particularly of weaker sections of the society. These both organizations are member owned and democratic in nature. Both the structures create main streaming for their members and establish a national as well as international network for their members. Both these movements started off as a movement of the poor, disadvantaged working class including workers and producers, but in last few decades the trade union movement has become a movement more related to those who belong to the formal sector. The Petitioner submits that women workers through generations, particularly in the informal sector, face exploitation, discrimination as regards job opportunities and wages and no census or record of the work they are doing whether by way of service or production. Their contribution towards the gross national product remains invisible and goes unnoticed. If these workers work together voluntarily forming a co-operative, they would have a better bargaining power which will eliminate economic exploitation by the middleman and also help them jointly to build their capital. A co-operative society of women workers, whether they be producers or

service providers, eliminates economic exploitation which helps in building means of production and improving efficiency. A co-operative society is neither public nor profit seeking organization. It is democratically controlled and it shares amongst its members what it earns from its activities. It is an association of persons who are not merely contributors of capital but persons having the same economic need. Co-operative model was considered by SEWA after much deliberation as perhaps the most effective model for its members for generating work and improving their well-being. More than 100 co-operatives have been formed by members of SEWA working in different fields. There are co-operatives formed of artisans, weavers, construction workers, fish vendors, waste pickers etc. The membership of such co-operative is voluntary and open. It is managed by the women themselves. All the members have equal status and the surplus is distributed equitably according to the effort put in by them. The Petitioner states that as far as the waste picker members of the Petitioner are concerned, there are five co-operative societies which are operating namely Shree Karyasiddh Kagad Kam Mahila Sewa Sahakari Mandli Limited, Shri Gitanjali Audhyogik Stationary Utpadak Sahakari Mandli Limited, Shree Saundarya Safai Utkarsh Mahila Sewa Sahakari Mandli Ltd Trupti Nasta Udyog Mahila Sewa Sahkari Mandali Limited and Pathepur Vankar Mahila Sewa Sahkari Mandali Limited.

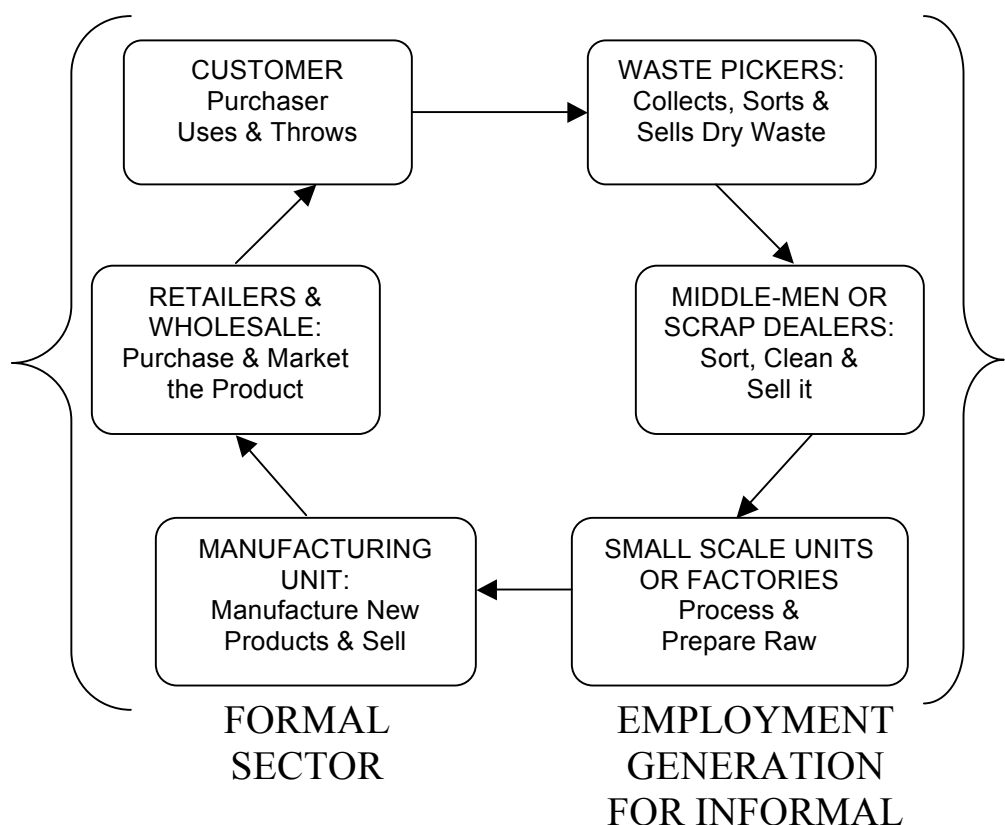
4. The present petition is concerned with the waster pickers. The petition aims at seeking reliefs generally regarding framing of policy for waste pickers both at National and International Level and particularly in and around the city of Ahmedabad. The Petitioner states that there are many types of waste pickers namely (1) those who collect waste from the

roadside (2) those who collect waste from residential houses, (3) those who collect waste from commercial complexes/premises and (4) those who collect waste from land filled sites (dump sites). All these workers are self-employed. They belong mostly to the Valmiki community or the Dalit community both being scheduled castes. These communities were lured to the city of Ahmedabad in view of the prospect of employment in the flourishing textile industry. Later on due to the crises in textile industry, large number of workers, both men and women, employed in textile mills lost their jobs resulting in financial crisis for the family. They were constrained to look for alternative means of livelihood. Many of the women in the family turned into collecting waste as it neither requires any particular skill nor capital. The Petitioner states that most of the waste pickers in Ahmedabad are traditionally women. The financial condition of these waste pickers would be evident if anyone observes them early in the morning collecting waste on the roads. Their normal day begins early in the morning around 04:00 a.m. They carry a sack on their back and collect the garbage from house-to-house as well as what is found on the road. They pick up anything and everything including waste papers, torn shoes, broken glass, wooden pieces, metal pieces, bones, human hairs, thin polythene bags etc. A list of types of waste collected is annexed hereto and marked **ANNEXURE-A**. This effort of collecting waste continues till mid afternoon by which time they would have walked more than 10 kms. On returning home, they do the household work and again start segregating different types of waste collected in the morning. Such waste collected and segregated is sold to the scrap shop owners known as Kabadiwalas. This Herculean effort put in by her yields her minimum of Rs.15/- per day and maximum of Rs.60/- per day depending upon the nature of

waste collected by her in the course of the day. The financial position of these waste pickers is evident from the torn clothes and slippers they wear. The Petitioner states from their experience with the waste pickers that in large number of cases the waste picker women are the main bread-earners for the family. The Petitioner says that in many cases their husbands are habitual alcohol addicts and hardly earn any income. The waste pickers work for more than 12 hours a day in extremely hazardous conditions. They seek the garbage from streets, dump sites and industrial garbage areas and segregate the garbage with bare hands. As per the estimation the city of Ahmedabad had around 40,000 waste pickers in 2008 of which 30,265 (approximately 75.7%) are members of SEWA. As per the data provided by the Solid Waste Management Department of Ahmedabad Municipal Corporation the city dumps on an average 2400 MT of waste every day of which 300 to 400 Metric tons are picked up by such waste pickers. The waste pickers are an important limb of the functioning of the city in that they keep the city's environment clean. This work also brings livelihood to large number of families in the city of Ahmedabad. A study by the Petitioner conducted at the beginning of the current decade had calculated the monthly income of the waster pickers on an average to be around Rs.500/- per month and in nearly 72% cases their combined family income was less than Rs.1,000/- per month which was well below the poverty line. The Petitioner says that there is no Regulatory Board to control the recycling trade or facilitate linkages between the waste pickers and the recycling industry. The waste pickers, however, have a long standing relationship with the local scarp shop owner often spanning over two or three generations and have their own unwritten implicit contractual terms. The waste pickers usually sell their waste to a

particular scrap shop owner who often gives them much needed credit and act as a sort of mentor cum employer. Yet while they look up to the shop owner both as a source of employment and support, they are also exploited in the relationship. The Petitioner says that the scene at the national level is not much different. Recycling in India is largely undertaken by a huge mass of workers involved in the informal sector. The World Bank estimates that 1% of the population in the cities of the developing world is engaged in recycling. The informal sector of recycling works like a pyramid the first layer comprises of several hundred thousand men, women and children in urban pockets who mine garbage heaps, landfills and bins for recyclable wastes like plastic, papers and metals. Most waste pickers do not use any equipment and often sift through heaps of garbage with their bare hands. The recyclable waste are put in large plastic HDPE sewn bags, that the waste pickers make at home, and load on cycle rickshaws and even on their backs or heads to take at home. The waste they collect then is segregated at home. The second layer is made of small middlemen who are also poor. They buy waste from the waste pickers. Their payments determine the earning of the waste pickers. They in turn sell the waste to the third layer comprising large buyers who own huge godowns and deal with only one variety of material. Finally at the top, devouring all the labour and material from below are the actual recyclers themselves. Mostly the city interacts with the first and the second layers whose labour actually propels recycling in India. These are also the repositories of knowledge and information about waste at the local level and have no inhibition about handling waste. All over India this informal sector is not formally recognized. The people involved in it do not have access to social security, medical

benefits or housing. The chain of waste recycling can be best described with the help of the following chart.



This chain of waste recycling results in manufacturing of various new products which is used by the society. A table showing the waste and the ultimate product manufactured there from is annexed hereto and marked **ANNEXURE-B**.

In the context of growing concern about deteriorating environment the roles of waste pickers is extremely positive as they are contributing a major part in recycling waste. Recycling also saves energy and trees. It also saves money, resource recovery, reduces emission in the forestry, mining and manufacturing sectors by replacing virgin materials used

in manufacturing. Much less energy is required to manufacture goods from recycled materials such as glass, metals and plastics than from virgin materials. In the case of paper and wood products, there is another advantage: Recycling paper products means less demand for wood and less deforestation.

5. The Petitioner states that the waste pickers in Ahmedabad in particular and generally all over India live below the poverty line yet there are hardly any records or statistics available with the government in respect to the waste pickers. Waste pickers have long hours of work yet have meager earnings. They are illiterate or semi-literate class and are even exploited class mainly by the scrap shop owners. Other sections of the society generally shun them due to the nature of their work. As a result, the waste pickers prefer to stay in their communities and continue to remain illiterate because of the social stigma attached to their work. Majority of the women waste pickers are continuously exposed to dirt, filth and waste. The health problems faced by them are enumerated hereafter.

(1) Majority of the women waste pickers complain of pain in legs due to continuous walking and 85% of women suffer from backache. Consequently each waste picker spends between Rs.20/-and Rs.50/- per month on medications or medical assistance.

(2) Many a times while digging the waste they get hurt by broken glass, sharp metals and so on. These workers do not have enough money even to take tetanus injections exposing them to serious risk. They also get wounds due to lack of hygiene.

- (3) Dogs also bite them and they are not able to take proper treatment for it. Although rabies injections are available in the Civil hospital at half price, the workers are unable to spend even that much exposing them to risk of rabies.
 - (4) Waste pickers also complain of breathing problems, because they inhale a lot of smoke that comes out of the burning garbage and are exposed to tuberculosis, asthma.
 - (5) Waste pickers are frequently exposed to diseases like Malaria, gastroenteritis, typhoid, cholera etc.
 - (6) Waste pickers are generally malnourished and have unhealthy and unhygienic work as well as living conditions.
6. Since 1972, SEWA is involved in organizing women working in informal sector. In its efforts to organize women working in the informal sector, it has also been actively associated in organizing women working as waste pickers in the city of Ahmedabad. Today around 30,265 waste pickers of Ahmedabad against an estimated total of around 40,000 waste pickers in Ahmedabad are members of SEWA. The textile industry, which at one time, was very flourishing industry in Ahmedabad employing large number of men and women faced a steady decline in its fortune since 1930. With passage of time and as textile mills faced difficulties, the women workers employed in the textile mills lost their jobs and were constrained to seek other works as means of

livelihood. Large number of them ended up in areas collecting scrap. SEWA's involvement with waste pickers began in 1975. Women textile workers and wives of men textile workers who had lost their jobs and who had resorted to pick up waste for livelihood approached SEWA expressing their plight and hardships. It is in this background that SEWA carried out a sample study on the waste pickers and consequently decided to organize waste pickers with a view to improve their income. As a first step, SEWA approached textile mills and requested their owners to have contracts with the waste pickers to enable them to pick the waste and rags of the mills. This helped the waste pickers in getting a steady flow of rags, papers and other wastes yielding a stabilized income. Moreover, the waste pickers who could be given this type of waste picking work also were saved from the health hazards suffered by other waste pickers. SEWA also organized training programmes for the waste pickers with a view to educate them and make them aware of their rights. As a major initiative of SEWA in 1978, a general meeting was organized of the waste pickers in order to workout future strategy in light of the fact that there was a growing instability in their work. It was evident from what transpired at that meeting that alternative income generating activities are required to be developed for the waste pickers. Some of the alternative income generating activities which were discussed at that meeting were – (1) to develop the weaving skills of the women waste pickers particular those who belong to the weaving community work, (2) to help those who were willing to do regular cleaning work on a salary basis by getting them institutional and domestic cleaning work, (3) to engage particularly the daughters of the waste pickers in skills of recycling paper and other waste. From time to time different waste pickers' co-operative societies were formed.

7. In or around 1983-84, SEWA got approval to pick “D” category of paper from government press free of cost. SEWA also lobbied with the government and municipal offices requesting them to give “D” category of waste to the co-operatives of waste pickers free of cost and that they should be allowed to access the better categories of waste papers at nominal rates. Pursuant to the efforts of SEWA, government passed a resolution / circular directing government offices to give waste to the co-operatives of waste pickers. In this way, the waste pickers who used to only collect waste from the roads, dustbins and dump sites got access to better quality of waste and improve their well being. In or around that time, the Dordarshan T.V. did a programme on SEWA and the waste pickers. SEWA organized waste pickers in Anand and helped them get all waste from National Dairy Development Board, Anand and Amul Dairy Anand. With passage of time, SEWA trained the daughter of waste pickers to make stationary and paper pulp items and also decided to promote these items in various offices. In or around 1995, Shri Gitanjali Mahila SEWA Audhyogic Stationary Utpadak Sahakari Mandali Ltd was formed, the members whereof were mainly daughters of waste pickers. This co-operative society was involved in manufacturing of stationary and paper pulp items. The said co-operative society till today continues to manufacture such items. During this period, SEWA also involved National Institute of Design to develop tools which would reduce occupational health hazard and increase the productivity of the waste pickers and NID has developed a rod which helps the waste pickers to pick up waste without bending. Post spread of plague, SEWA along with the Municipal Corporation of Ahmedabad and others initiated a campaign to clean the city called “Clean

Ahmedabad Campaign". As a part of this initiative, a practice was adopted in certain areas of the city of Ahmedabad to place a waste collecting bag to collect dry waste from each house and the same was collected every day. This is being done in various areas of Ahmedabad by the women waste pickers who are members of SEWA. This campaign which was awarded by the Federation of Indian Chamber of Commerce & Industry, New Delhi for its contribution to the cleaning of the city and the waste pickers were recognized as Arogya Bhaginis. From time to time waste picker members of SEWA are elected in the Executive Committee of SEWA and also at times Directors of Shri Mahila Sewa Sahkari Bank Ltd.

8. The Petitioner states that as per the statistics available out of the total work force of the country, 93% are in the informal sector and only 7% are in the formal sector. Of this 93% work force are in the informal sector, 40% thereof are women. There is no social security or even any accurate data or statistics in respect of those who are working in the informal sector. With a view to increase their social security SEWA initiated campaign to increase the membership and strengthen the union of waste pickers to enable them to get better prices of the waste as well as bonus from the scarp shop owners and to establish their identity through issuance of identity cards. On persuasion of SEWA, the Gujarat State constituted Urban Informal Economy Workers' Welfare Board in or around 2007 which started issuing identity cards to waste pickers. This is the first time that such identification of waste pickers has been done in the country. Only when such identification percolates to all waste pickers that it would be possible to get correct data and statistics in respect of these informal workers which would help in framing of a national integrated policy for them.

9. In the meanwhile, in 1998, through the initiative of SEWA Shri Karyasiddh Kagad Kam Mahila Sewa Sahakari Mandli Limited was formed with 51 waste picker members with a view to give to the members of the society a decent livelihood by society obtaining cleaning contract. This society was also formed, primarily with a view to socially and financially uplift its members. Immediately after the formation of the society, SEWA approached the Ministry of Women and Child Welfare of the State of Gujarat requesting them to permit the society to collect “D” category of waste paper from the Office of the Secretariat, at Gandhinagar. Since then the society has been collecting “D” category of waste (Dry waste) from the Secretariat, at Gandhinagar. Through the initiative of SEWA as well as the Karyasiddh Society, the waste pickers got the assignment of road cleaning and picking dry waste from various offices of four main roads in the city namely the Ashram Road, C.G. Road, Gandhi Road and the Relief Road.

10. On 20.07.1998, the Supreme Court of India in Almitra H. Patel and another v/s. Union of India Writ Petition No.888 of 1996 constituted a Committee under the Chairmanship of Mr. Asim Burman, Commissioner, Calcutta Municipal Corporation to look into all aspects of Urban Solid Waste Management particularly:
 - (1) Examine the existing practices and to suggest hygienic processing and waste disposal practices and proven technologies on the basis of economic feasibility and safety which the Corporation / Government may directly or indirectly adopt or sponsor.

- (2) Examine and suggest ways to improve conditions in the formal and informal sector for promoting eco-friendly sorting, collection, transportation, disposal, recycling and reuse.
- (3) To review Municipal by-laws and the powers of local bodies and regional planning authorities and suggest necessary modifications to ensure effective budgeting, financing, administration, monitoring and compliance.
- (4) Examine and formulate standards and regulations for management of urban solid waste, and set timeframes with which the authorities shall be bound to implement the same.

The Committee submitted its report to the Supreme Court of India which, inter alia, gives its recommendation for modernization of solid waste management practices in Class-I cities in India. The said report emphasizes that no household, hotel, restaurant or commercial premises should throw their waste on streets, footpaths, open places, drains, or water bodies. At source the waste should be divided and stored in two bins one for food waste/bio-degradable waste and another for recyclable waste. However every household etc. should be careful to separately keep hazardous household wastes such as batteries, pesticides, discarded medicines etc. It categorically emphasizes daily service from the door step particularly in respect of the bio-degradable waste. The report clearly emphasizes the importance of door-to-door collection of waste in every locality with a view to avoid households throwing the waste in streets and other areas. The Petitioner is emphasizing the above aspect in light of the fact that the Respondent Corporation is taking a

retrograde steps of awarding a contract where there would not be door-to-door collection of the bio-degradable and recyclable waste but on the contrary the collection of such waste will be only society-wise transferring the burden of depositing such waste on the residents. The enforceability whereof would be difficult to achieve.

11. The policy of Solid Waste Management was adopted by the Vejalpur Nagarpalika. The President of the then Vejalpur Nagarpalika discussed with SEWA whether waste picker members of SEWA can together see that in the Vejalpur area cleanliness improves multifold. SEWA picked up the challenge and the Executive Committee members of the Karyasiddh society met the President and discussed how best the waste can be collected from the whole of Vejalpur area. The solution which came up during discussion was that at the household level dry and wet waste should be segregated. The waste picker members of the society would collect both the dry waste and the wet waste door-to-door from each house. The wet waste will be dumped by the waste picking members of the society in the waste bins of the Nagarpalika, while the dry waste would be taken by the members to their home for segregation and ultimately sell to the scarp dealers. The Nagarpalika agreed to pay to the society Rs.11/- per month per house, office or shop. With a view to implement the Scheme effectively, intensive meetings were held with the residents, society-wise, by the Members of the Karyasiddh society, to educate the residents in segregating the dry and wet waste and keep them in separate bins/bags. This practice was consistent with the report submitted to the Supreme Court by the Committee appointed by it. Such meetings were held at night between 8:00 pm to 10:00 pm continuously for a period of 15 days. In

large number of such meetings, President of the Vejalpur Nagarpalika himself remained present to persuade the members to follow this practice of segregating wet waste and dry waste. Even leaflets were prepared and distributed amongst the members. Vejalpur, at the relevant time, was divided into 12 wards. With a view to effectively carry out the work, the 12 wards were clubbed into 3 centres. The society then mobilized waste pickers from Vejalpur and nearby areas to avoid huge transportation cost and generate local employment. After conducting survey, it became evident that around 366 waste picker women were required and each woman was expected to cover around 125 houses. The Standing Committee of Vejalpur Nagarpalika entered into the agreement with Karyasiddh society on the following terms and conditions:

1. All the work of door-to-door waste collection in Vejalpur is allotted to the society and the society will carry out this work phase-wise. Initially this work would be carried out in 2 wards and later all the wards of Vejalpur will be included.
2. Every household will segregate the dry and wet waste, keep it separately and the women waste pickers of the society will collect this segregated waste from each household.
3. The waste picker members of the society involved in this work will be allotted 100 to 125 houses each and society will be paid Rs.11/- per house per month.
4. The society will keep the supervisors who will record the attendance of all the waste pickers and see that the work is carried out satisfactorily.

A copy of the resolution of the Standing Committee dated 18.12.2003 and the general body dated 29.12.2003 are annexed hereto and marked **ANNEXURE-C**.

12. The Karyasiddh society trained its members as to how they should behave with the residents and how they should collect dry and wet waste and with passage of time the system was made effective throughout Vejalpur which comprised around 760 Housing Societies and having around 41,548 properties. This work was done effectively and smoothly and the waste picker women used to get an income between Rs.1,500/- and Rs.2,000/- per month. Because of the increase in income the living standard of the women increased, they got social status and were able to eat nutritious food and educate their children. This initiative resulted in giving decent employment to more than 350 women waste pickers staying in or around Vejalpur. Due to successful implementation of the door-to-door waste collection within the area of Vejalpur Nagarpalika, the Ahmedabad Municipal Corporation being impressed by it also decided to give the work of door-to-door collection of waste to the Karyasiddh society in some of its wards. Such work has been awarded after inviting tenders in respect of 43 wards. The society filled in the tenders for 22 wards. In respect of 5 wards of Ahmedabad City namely Paldi, Stadium, Sabarmati, Gandhigram, Juna Vadaj and Vasana, Karyasiddh society got the work of door-to-door waste collection. The Vejalpur Nagarpalika's Chief Officer gave a certificate to the Karyasiddh society for the excellent work done by them. A copy of the certificate given by Vejalpur Nagarpalika to the Karyasiddh Society is annexed hereto and marked **ANNEXURE-D**.

13. In the year 2005, elections were held of the Vejalpur Nagarpalika. A new President was elected and the whole body changed. Instead of continuing the year-to-year contract of Karyasiddh society, the Nagarpalika decided to invite tenders. While tender system is generally the accepted norm to award contracts by public authorities, in the instant case it could have resulted in possible deprivation of livelihood to more than 366 women waste pickers. Around 11 parties submitted their bids at rates varying between Rs.7.40 per house to Rs.11/- per house. Karyasiddh society had submitted a bid of Rs.10/- per house per month, but had to reduce the rate to Rs.7.30 per house per month. It was only pursuant to such reduction that the contract was awarded to Karyasiddh society for one year and that too after much persuasion as the Vejalpur Nagarpalika was more interested in giving contracts to others, none of whom were admittedly co-operatives of waste pickers. Karyasiddh society had to reduce its rates to Rs.7.30 per household which was lower than what was being paid to them in the 5 wards of the Ahmedabad city as that was the only way in which they could continue to get work in the Vejalpur Nagarpalika and thereby earn their livelihood. The Petitioner says that what is surprising is that the good efforts of Karyasiddh society and its members Vejalpur Nagarpalika got award for cleanliness yet that was not a relevant consideration for the municipality. In fact, the manner in which waste management was carried out at the Vejalpur Nagarpalika was appreciated in a book entitled Solid Waste Management in India Cities edited by Darshini Mahadevia and Jeanne M. Wolfe, a copy of the chapter on Vejalpur is annexed hereto and marked **ANNEXURE-E**. The Petitioner states that the World Bank published a book titled "Improving Solid Municipal Waste Management in India – A Source Book for Policy Makers and

Practitioners” which recognizes the practice adopted amongst other places in Vejalpur as good examples of storage of waste at its source through an effective public awareness campaign including public meetings. Such campaign was undertaken as stated hereinbefore by the members of Karyasiddh society in association with SEWA and municipality. The photographs of Vejalpur area showing segregation and rag picking were also placed in the book. Copy of the relevant pages along with the title of the book are annexed hereto and marked **ANNEXURE-F**. In July 2006, the Vejalpur Nagarpalika was merged with Ahmedabad Municipal Corporation and the contract has since then been extended every three months and is to expire on 30.09.2009. In September 2007, the Ahmedabad Municipal Corporation changed the practice of dumping of bio-degradable/wet waste in more than 150 waste containers placed by the municipality in different areas and adopted a new practice of giving contract to one Jankalyan Valmiki Seva Trust. The said Jankalyan Valmiki Seva Trust had only 6 trailers and 6 tractors. The 6 trailers were being placed at designated place to enable the waste pickers to deposit bio-degradable/wet waste. The Petitioner states that the new system adopted had number of limitations namely (1) very few trailers in an area covering more than 45,000 houses, (2) the trailers were taken to the dump fill site would come back to the designated site after a minimum of two and half hours, (3) the trailers position was suddenly changed from one place to another. In the meanwhile, Ahmedabad Municipal Corporation invited tenders for the new West Zone which included the Vejalpur Ward on 22.01.2008 for door-to-door collection and dumping waste at a landfill site. Around 27 tenders were submitted for Vejalpur area of which 2 tenders were submitted by the co-operatives of waste pickers both of which having been

promoted by members of SEWA, other tenders were by trusts or private bodies. A copy of the list of persons who submitted their tenders is annexed hereto and marked **ANNEXURE-G**. No further steps were taken pursuant to the said invitation of tender and Karyasiddh society's contract was extended from time to time for 3 months. Again on 25.07.2008, Ahmedabad Municipal Corporation invited tenders for door-to-door waste collection and dumping at the landfill site for the West Zone. 27 bidders submitted their tenders, most of which were public trusts purportedly carrying on charitable activities and only 5 of them submitted their bid for Vejalpur Ward. Copy of the list of tenderers who submitted their bids pursuant to tenders invited on 25.07.2008 is annexed hereto and marked **ANNEXURE-H**. Again no further steps were taken pursuant to the tender. It would be pertinent to highlight that the Ahmedabad Municipal Corporation with a view to obtain co-operation of the citizens had framed a Scheme. A copy of the Scheme is annexed hereto and marked **ANNEXURE-I**. Scheme contemplated that preference would be given for door-to-door solid waste collection to a registered Resident Welfare Association. Residential Welfare Association has been defined in the Scheme as under:

If any Association is formed by citizens residing in any society, chawl, hutments or other type of houses or bungalows, situated in any residential area, for their well-being or carrying out any other activities or resolving their problems and if such Association is registered it would be considered Residential Welfare Association.

If in any residential area such Association has yet not been, if the residents of that area to take benefit of the Scheme form their Association, Society or Resident Welfare Association and get it registered, then from the

date of such registration such Association or Society will be considered Resident Welfare Association.

Thus what was intended was that if the residents themselves or by employing people were willing to undertake part-time work of door-to-door collection, preference should be given to them and if no such Residential Welfare Association was formed or was willing to do such work, preference should be given in the following order:

First Preference : Co-operatives of Valmiki Samaj
Second Preference : Co-operatives of Dalit Samaj
Third Preference : Women's co-operatives
Fourth Preference : Other co-operatives

The Petitioner says that while the intention in the Scheme was to give preference to those who are living in an area to keep that area clean, it appears that this was a possible loophole to award contracts to anyone.

14. Since the Vejalpur Nagarpalika was merged in Ahmedabad Municipal Corporation, the Corporation kept on harassing Karyasiddh society by not releasing the payment for 2-3 months. Every time the office bearers of the Karyasiddh society with the help of SEWA had to meet Deputy Commissioner and only when Deputy Commissioner would give directions that the ward officers would release payments. The Petitioner says that the payments being made by the Corporation were delayed by 2-3 months regularly resulting in Karyasiddh society facing severe cash crunch for distribution to its members. The Petitioner says that the Karyasiddh society was a society only of the waste pickers and was not and could never have been a cash-rich society

which could afford receiving payment at the whim and fancy of the Corporation. The Karyasiddh society was expected to distribute the income amongst its members for that was a source of monthly livelihood to its members. The effect of delay in Karyasiddh society receiving payments from the Corporation consequently resulted in Karyasiddh society being not able to distribute immediately the monthly sum to its members. Waste picker women members of the Karyasiddh society and of SEWA are coming from extremely poor families and at times their income from waste picking i.e. selling recyclable waste to the scrap dealers and the monthly distribution from the Karyasiddh society was the only source of income for the whole family. They, by their activity, became the breadwinners of the family. The inability of the Karyasiddh society to distribute the income amongst its members resulted in the whole family of some waste pickers going without food. Some of them could not pay rent and the family lost their houses as the furniture and household items were thrown on the road by the owner - landlord. They were also required to pawn their jewellery to the moneylenders to keep their stoves burning. The best way to describe their plight is in the words of one waste picker member of the Karyasiddh society Sajanben Rameshbhai Miyavada which is on record of the Karyasiddh society. The English translation of her statement kept on record by the Karyasiddh society reads as under:

“My name is Sajanben Rameshbhai Miyavada. I was living in the kaccha house. I got the work in door to door waste collection and thereby increase in my earnings; I rented a house constructed by AUDA for economic weaker section. I was very happy. No longer had the roof leaked over me in the rainy season. No longer had I dust in my food. My house contained a room and a kitchen which was a heaven for me. We had a place to cook food and eat.

We had a good income, roof over head and good food in bellies. But difficulties come without warning. AMC merged with Vejalpur Nagarpalika and AMC started making delay in payments. Therefore, I also could not give rent on time to the owner. In one such incidence we did not get payment for long time. It was very difficult for us. The grocery shop stopped giving us the grocery on credit and we had no money to buy grocery by paying cash. We borrowed money but for how long. I had no valuables to pawn. More over the owner demanded the rent. I tried to convince him that I will pay rent as soon as I get the payment. He agreed to wait for fifteen days. But we did not receive the payment for long time. The owner refused to wait. I kept on begging and crying but he refused to budge. He threw out the belongings on the open road and that too at the night. Where should I go with my family? We stayed on the roads. As if this was not enough my husband blamed me as if it was my fault that we had not received payment and harassed me.

The only option to retain the house was to incur debts..... And like every poor do, I borrowed money from the money lender at the exorbitant rate of interest....

I am trampled under heavy debts and borrowings I do not know whether in my life time, I will be able to pay the debts.”

Similarly the statement of two other women Jashiben and Dhaniben is also recorded by the Karyasiddh society and the translation whereof reads as under:

“We are Jassiben, Dhaniben and 90% workers involved in door to door waste collection.

Our family depends on us. Our husbands are drunkards. Instead of earning they spend our hard earned money on liquor. Because of the late payment we are unable to give them money for liquor. And then the hell gets loose. They beat us, they throw us out of the houses as if it is our fault that the payment is delayed. We don't know whether to satisfy our basic necessities or to give precious money for liquor.

If we don't give money we know that our bodies would be blue and green next day. But we don't have any option. If we refuse we are thrown out of the houses. Many of us are beaten and have been thrown out of the houses at night with no place where we can go and we have just sky above us."

The Petitioner says that in view of the plight which the waste pickers and their family were suffering due to late payment being made by the Corporation and consequential delayed distribution by the Karyasiddh society, some of them started seeking some or the other avenue of earning income such as cleaning toilets and bathroom, sweeping compounds/gardens /terraces. Income earned from such activity was meager as compared to what was being earned by waste picking through distribution by Karyasiddh Society. The earnings from such activity were either intermittent or the monthly wages were as low as Rs.100/-. It would be pertinent to highlight that against Karyasiddh society getting Rs.7.30 per house per month, it was distributing Rs.6.80 per house per month. On an average the monthly income of the 366 women waste workers varied between Rs.600/- to Rs.900/- per month.

The Petitioner says that when the Karyasiddh society was working under the Vejalpur Nagarpalika, its performance was considered so good that certificate of appreciation was given to the society. The area under the Vejalpur Nagarpalika was considered a no-complaint zone. When the Vejalpur Nagarpalika merged with the Corporation, the method of door-to-door collection underwent a change, in that instead of dumping the bio-degradable waste in waste containers of the Municipality placed at more than 150 sites, the bio-degradable waste was to be dumped in 6 trolleys, placed at six strategic sites in the area, belonging to one Jankalyan

Valmiki Seva Trust who was awarded the contract on 01.09.2007 to transport the bio-degradable waste to a designated dump site. In other areas the contractor Jankalyan's 6 tractors with trolleys moved so that the bio-degradable waste could be dumped in such moving trolleys by the waste pickers. The route of moving tractors was fixed. Ultimately the six moving tractors would empty the trolleys at the dump fill sites after twelve in the afternoon and return to collect the trolleys placed at the strategic points for being emptied at the dump fill sites. Time taken by the tractors to go to the dump fill sites and return was approximately to two to two and half hours. The 6 stationary trolleys plus 6 tractors with trolleys in an area covering more than 45,000 houses was just inadequate. This change in the system resulted in a heavy burden on the waste pickers. On many occasions the trolleys were not found at the strategic points fixed and the tractor trolley changed their routes. This resulted in the waste pickers having no place to dump the waste. The route, timings fixed for the tractor operator were not adhered to and waste pickers waited for the trolley to pass by for long period of time. Because of the limited number of trolleys, they were overfilled and used to spill, yet the officers of the Ahmedabad Municipal Corporation blamed the waste picker members of the Karyasiddh society and at their whim and fancy imposed penalty on the society. The Petitioner states that the Karyasiddh society addressed number of letters to the Corporation highlighting the difficulties faced by them regarding the functioning of the tractor trolley operator. Illustrative copies of such letters along with translation are annexed hereto and marked **ANNEXURE-J** collectively. The Petitioner craves leave to refer to the others, if necessary, at the time of hearing of the petition. The Petitioner says that this change in system particularly in view of non-adherence

by the tractor operator to follow the fixed route and serious delay in the tractor trailers reaching the designated places of stopover on their designated route did result in, on occasions, the biodegradable waste not being put in the trolley but kept aside for being subsequently deposited thereat. It would be pertinent to highlight that the change of system as explained hereinbefore was made effective from 01.09.2007. It would also be pertinent to highlight that even after merger of Vejalpur area in the Municipal Corporation, there were hardly any complaints against the Petitioner between January and December 2007. In 2008, against 46,842 houses which were covered under the contract for door-to-door collection of recyclable and biodegradable waste, Corporation received not more than 10 complaints a month that too in spite of the difficulties being faced by the waste pickers due to inadequacies of the changed system. The Petitioner says that what was unfortunate was the delay on the part of the Corporation in releasing payment to the Karyasiddh society. The Petitioner states that the payments were delayed by the Corporation and in particular the ward officers as they had expectations from the Karyasiddh society which the Karyasiddh society was unable and incapable of satisfying. This delay has resulted in the Karyasiddh society being unable to distribute its surplus amongst the members in time. The Petitioner says that the waste picker women were constrained to take up other work which resulted at times in their inability to collect dry and wet waste door-to-door in the area which was assigned to them resulting in complaints being made by the occupants of the houses. Despite all this throughout 2008 and even early 2009, there were hardly any complaints per month. The Petitioner says that on one occasion in July 2008 one of the waste picker members of the Karyasiddh society had gone for some funeral/Besna

ceremony and had requested her daughter to do the work of waste picking in the area which was within her jurisdiction. Daughter's son who was a minor, was accompanying her. This unfortunate incident was brought to the notice of the Karyasiddh society by the Corporation and the Karyasiddh society assured the Corporation that such an incident will not occur again and that they had strictly instructed their members not to take their child with them. The Petitioner says that there has been no complaint thereafter of such nature. There was absolutely no justification on the part of the Corporation to place reliance on such single incident more particularly when there were 366 member workers working in the area covering more than 46000 houses. The Petitioner says that after having achieved good proficiency, the Karyasiddh society could not have suddenly become inefficient. This sudden increase in the complaints against the members of the Karyasiddh society from March 2009 appears to be motivated. The Petitioner says that every possible complaint was sought to be resolved by the Karyasiddh society, yet for no explicable reasons the number of complaints did not diminish. The Petitioner states that the increased number of complaints had no co-relation to the work being done by the waste picking members of the Karyasiddh society. The Petitioner apprehends that it was not receipt of complaints but collection of complaints by the Corporation. This culminated in a notice dated 06.06.2009 to blacklist the said Karyasiddh society. Copy of the notice dated 06.06.2009 is annexed hereto and marked **ANNEXURE-K**. Karyasiddh society approached the occupants of various societies whose names were mentioned in the Corporation's notice dated 06.06.2009 and requested them to give appropriate letter regarding the functioning of the members of the Karyasiddh society. There was

overwhelming response from the residential societies in favour of the Karyasiddh society. Illustrative copies of such letters are annexed hereto and marked **ANNEXURE-L** collectively. The Karyasiddh society responded to the Corporation's letter dated 06.06.2009 by their letter dated 15.06.2009, copy where is annexed hereto and marked **ANNEXURE-M**. The Petitioner submits that thereafter no further action was taken by the Respondent Corporation against the Karyasiddh society. On 11.06.2009, the officers of the Corporation purportedly got a complaint under signatures of the waste pickers claiming that one Minaxiben of SEWA is paying monthly Rs.600/- to Rs.700/- to the waste pickers and forcing them to work without full salary and is not giving even push cart or waste bins and requested the ward officer to relieve them from the harassment meted out by Minaxiben. A copy of such complaint purported received by the Corporation ward officer is annexed hereto and marked **ANNEXURE-N**. The very next day, on 12.06.2009, the same waste picker women gave a statement to the Karyasiddh society that they were forced to sign by the officers of the ward on a blank paper. A copy of the said statement is annexed hereto and marked **ANNEXURE-O**. The Petitioner says that if the complaint was genuine, the waste pickers who were members of SEWA could have approached SEWA rather than the officers of the Corporation. The Petitioner says from the above it would become evident that the Respondent Corporation was keen to award the contract to some other person other than the Petitioner and the so-called receipt of complaints post March 2009 appears to be action motivated by that goal in mind.

15. The Petitioner says that to the utter shock and surprise of the Petitioner, Manager of the Karyasiddh society, a society

promoted by the Petitioner, received a phone call from the Deputy Health Officer of Vejalpur Ward at around 10 past 09:00 a.m. on 14.09.2009 informing her that the work of door-to-door waste collection and disposal will be taken over by the private Surat based firm namely Jigar Transport Company with effect from 15.09.2009. The Petitioner states that 14.08.2009 when this intimation was received by the Petitioner was Janmastami and therefore a holiday. Similarly 15th and 16th August 2009 were also holidays. The Petitioner states that the contract of Karyasiddh society was already extended till 30.09.2009 and therefore such abrupt decision in the midst of the contract was even a greater shock and surprise to the Society. The Petitioner states that surprisingly even the workers engaged and the vehicles engaged by Jigar Transport Company and AMC were already in the Vejalpur area as if to immediately takeover the work from the next day. The Respondent AMC claims that it is a pilot project which they proposed to introduce in Vejalpur on the basis of the experience of Surat and Baroda with respect to this Jigar Transport Company. The Petitioner states that such action will clearly deprive the women waste pickers totaling 366 of their livelihood, right to work, right to life and liberty and would deprive the families of these waste picking women of a substantial, if not whole, of their source of livelihood. The Petitioner states that the Karyasiddh society was constrained to file Special Civil Application No. 8608 of 2009 on 14.08.2009 itself. The said petition was taken up for hearing late at night at around 10:30 p.m. by the Division Bench of this Hon'ble Court comprising M.S. Shah and K.M. Thakar, JJ at their residences and the Hon'ble Court was pleased to issue notice returnable on 24.08.2009 and was pleased to grant ad-interim relief in terms of paragraph 15(C) of the petition till then which reads as under:

“(C) Pending admission, hearing and final disposal of this petition, the respondent corporation, its agents and servants may kindly be directed to permit the petitioners to continue to perform their duties in Vejalpur ward.”

Copy of the petition bearing Special Civil Application No.8608 of 2009 along with affidavit-in-reply filed by the Corporation is annexed hereto and marked **ANNEXURE-P**.

16. The Petitioner submits that the Corporation instead of collecting waste from door-to-door is proposing a new model which is called by the Corporation as “Gate to Dump Model”. The Petitioner states that the method proposed by the Corporation is that the waste collector will collect the waste from the gate of the society in a EURO-III compliant vehicle and send the same directly to the dump site. All occupants will have to go and give the waste to the collector at the gate at the designated time. The Petitioner submits that the Corporation claims that the existing system of work has many complaints. The Corporation claims that the Mandlis which have taken such work from the Corporation employs sanitary workers who are exploited by middleman and vested interest. The Scheme of the Corporation was that 90% of the payment should go to the workers and that the workers should get a minimum wage as per the Minimum Wages Act. The Corporation claims to have found that in case of Mandlis only 50% payment is being made to the employees employed by the Mandlis and the members are being paid at times 25% of wages admissible to them. The Corporation claims that Mandlis have taken the Corporation for a ride. The Petitioner states that these comments are found in the note annexed to the reply to the Special Civil Application. While these

comments are made by the Corporation, they have at no place said or suggested that it applies to the Karyasiddh society. The Petitioner submits that Karyasiddh society is a Co-operative Society of all waste picker members and against Rs.7.30 per month per house received by the Karyasiddh society, the society pays Rs.6.80 per month per house to the waste picker member i.e. it pays 93% of the amount received to the waste picker members of the Karyasiddh society. The Petitioner says that the Karyasiddh society does not employ any waste picker. This payment is by way of distribution of the surplus to its members. The Petitioner states that in addition to this, Karyasiddh society pays to the Supervisors 50 paise per house per month. Squaring up all the accounts, it finds itself at times in deficit and is required to obtain funds from Petitioner. The Petitioner submits that the Corporation in other areas has been awarding contract to Resident Welfare Associations, where the question of employing sanitary workers would arise. In case of the co-operative society of the waste pickers such thing would never arise because the co-operative belongs to the waste picker women themselves. The Petitioner submits that while the report enumerates complaints in respect of the members of the Karyasiddh society which are already dealt with hereinbefore, the earlier part of the observation has nothing to do with Karyasiddh society and the Corporation is seeking to confuse the issues. The Petitioner submits that if the Corporation finds that its policy qua Resident Welfare Association is not appropriate, it would not imply that the contract should not be awarded to genuine co-operatives of waste picker members. The Petitioner submits that depriving contracts to genuine co-operative society of waste picker women and awarding such contracts to a private company will lead to exploitation of sanitary workers and also

deprivation of livelihood not only to the waste picker women but their families. The Petitioner submits that there are about 40000 waste picker women in the city of Ahmedabad and the decision of the Corporation to award contract to a private agency like the Jigar Transport Company on the premises of automation would result in loss of livelihood not only to 366 waste picker women in the Vejalpur area, but, if the policy is taken forward, it would result deprivation of livelihood to a large section of society. The Petitioner submits that the city is required to be cleaned and all stringent enforcement measures are required to be taken to see that it remains clean in light of the Solid Waste Management Rules framed by the Government of India. At the same time, it does not imply that the contract should be given to private agencies who would not only exploit the sanitary workers but would also make profit from the recyclable waste which they obtained through such contracts which presently is a source of income to the waste picker women.

17. The Petitioner submits that it is even more surprising that the Corporation is proposing to award the contract for Vejalpur area to one Jigar Transport Company without even inviting tenders. A decision to that effect was taken by the Standing Committee at its meeting held on 02.07.2009 by Resolution No.356. The contract is given at the rate of Rs.950 per ton. A copy of the Resolution No.356 dated 02.07.2009 is annexed hereto and marked **ANNEXURE-Q**. The Petitioner submits that the contract is proposed to be awarded with effect from 01.10.2009 to one Jigar Transport Company and this decision has been taken it appears by private negotiations. The Petitioner has not seen any advertisement being issued for Gate to Dump Site or door to door collection of solid waste by Ahmedabad Municipal Corporation in respect of

Vejalpur Area. The Petitioner submits that it is claimed by the Corporation that the contract is being given on a pilot project basis to a professional agency who will perform the function of collecting solid waste from society gate and transport the same in a covered EURO-III compliant vehicle. The Petitioner submits that if an appropriate analysis is done of the costs on the basis of the rate at which contract is proposed to be awarded to Jigar Transport Company, it would become evident that the same is not at all cost effective. (1) First and foremost instead of collecting waste from households, the contract is only going to collect waste from the gate of the society, (2) there is going to be no segregation and both recyclable and biodegradable waste will be dumped at the land fill site. (3) the Petitioner estimates that about 180 persons will be employed as against the present employment being generated of 366 in the form of members of the society earning their livelihood through distribution of surplus and sell of recyclable solid waste, (4) major investments are being made by AMC, (5) the cost to AMC under the contract with Jigar is Rs.950/- per ton. As against that the cost analysis done on the premises of what is being paid to Karyasiddh society is not more than Rs.500/- per ton, (6) the actual cost incurred by co-operative is approximately Rs. 500/- per ton, while the actual cost incurred by Jigar Transport Company would be approximately Rs.238/- per ton giving them a huge margin of profit, (7) The present system results in generation of local employment which in all probability will not be protected if the contract is given to Jigar Transport Company. The Petitioner submits that the Petitioner is not averse to any automation or use any improved techniques of waste collection. The Petitioner states that Jawaharlal Nehru National Urban Renewal Mission has huge funds available with it for the improvement of cities in India. Substantial funds

are being made available to the Ahmedabad Municipal Corporation for the purpose of improving the sanitation of the city. The Petitioner states that to the best of the Petitioner's knowledge such funds are proposed to be used for purchase of modern equipments and vehicles for solid waste collection. The Petitioner submits that the waste picker women of the Karyasiddh society are ready and willing to train themselves to use all such equipments and vehicles and are willing to adapt to all such new techniques which would help in more efficient collection of waste. The Petitioner submits that there is absolutely no justification on the part of the Ahmedabad Municipal Corporation to award the contract permanently or on pilot basis to a private organization such as Jigar Transport Company without even affording an opportunity to the Karyasiddh society or any other society of waste picker women. The Petitioner states that the Manager of Karyasiddh society on 15.08.2009 addressed a letter to the Commissioner of Ahmedabad Municipal Corporation requesting him to provide to the Petitioner society for the use of its members all the modern equipments such as covered vehicles, hand gloves, caps, uniforms, masks etc. which have been acquired by the Ahmedabad Municipal Corporation. Copy of the letter dated 15.08.2009 addressed by the Manager of the Karyasiddh society to the Commissioner of Ahmedabad Municipal Corporation is annexed hereto and marked **ANNEXURE-R**. The Petitioner submits that the Ahmedabad Municipal Corporation's decision to award contract to Jigar Transport Company on a pilot project basis or otherwise without inviting tenders and without considering the legitimate claims of all such societies whose members are trading waste pickers of the city of Ahmedabad is arbitrary, discriminatory, violative of Articles 14, 15(3) and 15(4) of the Constitution of India. The said decision is also

violative of the right of the members of Karyasiddh society and such other co-operative societies of women waste pickers and their families of life and liberty guaranteed under Article 21 of the Constitution of India. The Petitioner submits that the action of the Respondent no.1 deprives the women waste pickers of Valmiki and Dalit Samaj of their right to carry on their trade and occupation. It also affects their right to form associations and unions and collectively protect their rights. The Petitioner submits that apart from the fact that the action of the Respondent no.1 is violative of fundamental rights as stated hereinbefore, the action is also inconsistent with the directive principles of the State policy enshrined in Articles 38(1), 39(a), 39(c), 39(e) and 41 and 43 of the Constitution of India. The Petitioner submits that the decision of the Respondent Ahmedabad Municipal Corporation appears to be actuated not by a genuine interest in keeping the city clean. On the contrary, it clearly appears from the conduct of the Corporation in dealing with the Karyasiddh society over the last few months that their interest lied not in providing livelihood to the 366 waste picker women members of the Karyasiddh society. The Petitioner submits that in the circumstances it is humbly submitted that the decision is required to be quashed and set aside and the Respondent Corporation should be directed not to award contract to any private firm for solid waste collection particularly in the Vejalpur area of the city of Ahmedabad and generally in all the areas. It would be just and proper that traditional waste pickers who have earned their livelihood by carrying on waste picking activities and whose children have been encouraged to take up other activities by the Petitioner continue to get the work of waste picking so that they and their children are not deprived of the meager livelihood they are earning. The Petitioner submits that instead of encouraging the waste

pickers of Ahmedabad and giving them livelihood which they are entitled to, the Respondent Ahmedabad Municipal Corporation is bent upon depriving the livelihood of such waste picker societies. The Petitioner submits that it is not the claim of the Petitioner that only a society promoted by the Petitioner should be awarded the contract. The Petitioner's only claim is that whenever tenders are invited by the Corporation, they should give preference to a co-operative society whose all members are waste pickers and are willing to take up the work themselves. The Petitioner submits that such condition will protect the waste pickers of Ahmedabad and would provide them right to work and livelihood. At the same time, if no society of such nature is willing to take up the work in any area within the city of Ahmedabad, the Corporation would be at liberty to award the contract to some other person but before doing so to protect livelihood of more than 40000 waste pickers of Ahmedabad preference has to be given to such co-operative societies. The Petitioner submits that the policy of the Ahmedabad Municipal Corporation which provided for preference to Resident Welfare Association was itself a policy which encourage middleman in exploiting the waste pickers and obtaining the benefit of the contract being tendered. All the stringent conditions should be put by the Corporation in the tenders for recognizing the society as a genuine society of the waste pickers and only when such society is going to take up the work of waste picking in any particular area to be done by its own members that the contract should be awarded to such society. The Petitioner is primarily interested in the well-being of large number of waste pickers in Ahmedabad who would either be unemployed or would get meagre salaries if the Respondent Corporation proceeds to award contracts to

private organization on the basis that they are professional agencies.

18. The Petitioner submits that the primary interest of the Petitioner in filing this Public Interest Litigation is not for the benefit of Karyasiddh society but for the larger benefit of all the waste picking women in the city of Ahmedabad and for that matter the Country. The Petitioner submits that these waste picker women are workers in the informal sector with no available data in respect of such women. It is therefore necessary that a proper policy is framed not only for the city of Ahmedabad but at all India level to protect right to work and life of the waste picker citizens of India. Such policy should be aimed at not only formalizing the waste picking profession in some manner but assuring them livelihood. The Petitioner submits that it is desirable that this issue is taken up at an all India level by the Respondents no.4, 5 and 6 and at the State level and at the Corporation level by the Respondents no.1, 2 and 3. The Petitioner submits that the waste pickers play a very important role in the society. Their population is 1% of the city. Their importance is, apart from cleaning the city, they for their livelihood segregate the waste collected into different kinds of sellable wastes and non-sellable wastes. The sellable wastes collected by them is sold and goes into recycling resulting in further employment in the recycling industry. This apart the waste which can be recycled does not go into the dump site and consequently does not pollute the atmosphere. To illustrate, large quantities of plastic in different forms are available as waste which is sold by the waste pickers to the scarp dealers which in turn goes in the recycling industry to manufacture plastic granules. If on the other hand all the waste is dumped at the dump site, these plastic articles will also be dumped at the

dump site causing pollution in the atmosphere, particularly when the waste material is incinerated. It is in this manner that the waste pickers play a very vital role in protecting the environment. Most of the waste pickers belong to the *Valmiki Samaj* and are generally living below the poverty line. The petitioner states that the city belongs to all strata of society. Social integration is required for inclusive cities to develop. Therefore it is essential that policies and schemes should be inclusive of poor and infrastructure facilities should reach all. This way the employment of poor will be preserved. If we sideline the waste pickers, the poor will become poorer. If the waste pickers are deprived of their work, which the other communities was seldom ready to do, they will lose their main source of livelihood. It is in this background that it would be just and proper that the Hon'ble Court directs the Respondents no.1 to 6 to frame a proper policy and mandatory rules for the waste pickers with a view to protect them against unemployment. The Petitioner submits that it is a duty of the State under directive principles of State Policy enshrined in Part-IV of the Constitution of India and in particular Articles 38(1), 39(a), 39(c), 39(e) and 41 and 43 of the Constitution of India to frame such policy. The Petitioner as an organization which has the experience of working with waste pickers over the last more than 30 years is in a position to give suggestions which could be considered by the policy makers of the Respondents no.1 to 6 in the framing of the policy. The suggestions of the Petitioners are:

- (A) The policy should provide for registration and identification of all waste pickers and should recognize that the right of waste picking should only be available to those who were traditionally doing the work of waste picking such as the Valmiki Samaj. To give work of

waste picking to any company, corporate body, and private individual would only result in deprivation of means of livelihood to the waste pickers and the filling in the coffers of private interest.

- (B) The Petitioner has elaborately explained the importance of co-operative movement hereinbefore. In that light, the right to collect waste should be confined to co-operatives of waste pickers belonging to the Valmiki Samaj. Presently waste picking activity is being given to any organization such as charitable trusts and Resident Welfare Association. Experience of charitable institutions in Gujarat would confirm that they are not necessarily charitable. They are sources of generating profits for the trustees. The Resident Welfare Association are also formed to cater to private interest and are source of exploitation of waste picking and sanitary workers. As a policy decision all Corporations and Nagarpalika should be directed to award contract for waste picking only to the co-operatives of traditional waste picker women so long as such co-operatives are ready and willing to do such work i.e. preference should be given while inviting tenders to such co-operatives.
- (C) Corporations and Municipalities should be directed to utilize the funds available to them from Jawaharlal Nehru National Urban Renewal Mission for improving the working conditions of waste picker women by providing them better and modern equipments which would protect them from health hazards.
- (D) Corporation and Municipality should be directed to arrange regular training programmes for waste picker

women to enable them to improve their skills and adapt themselves to modern equipments.

- (E) The Corporation should be directed to frame strict rules and regulations and to strictly enforce them vis-à-vis waste picker women making them more and more responsible to adhere to such rules.
- (F) The policy framed should emphasize and insist that all waste picking activities should necessary involve segregation of waste and sell thereof to the recycling industry. The policy should discourage dumping of all wastes at the dump or landfill site for that is contrary to sound environmental practice.
- (G) All co-operatives who are awarded contracts for collection of waste should be encouraged to train their members and their families in other skills which could generate employment for them. It would also help the next generation to seek other avenues of work so that they have occupational mobility.
- (H) With a view to see that only genuine co-operatives of waste pickers are given contract for waste picking and waste pickers are not exploited, following criteria should be laid down as a precondition for submission of tenders:
 - (i) The co-operative should be only a co-operative of waste pickers belonging to the Valmiki or Dalit class.
 - (ii) Such co-operative should be in existence for more than three years.

- (iii) Such co-operative must submit last three years audited accounts along with the tender to enable the tendering local body to verify the genuineness of the co-operative and the nature of the work undertaken by the co-operative in the last three years.
 - (iv) Only such societies which have a track record of waste collection should be permitted to participate in the tender process. However, if there is no track record of the society and such society is required to be considered, the contract should be awarded for a very short period for evaluation.
- (I) All Government offices and local bodies should give the “D” category of waste (the most inferior kind of waste) to the co-operatives of waste pickers without expecting any return. If there are more societies, the waste could be distributed between them. All Government offices and local bodies while inviting tenders in respect of waste of category “A”, “B” and “C” should provide for preference to co-operative societies of waste pickers.
- (J) The Respondents no.4, 5, and 6 should levy cess on the recycling industry for the manufacturing activity carried on by them. Such cess should be used for creating social security for the waste pickers all over India in the form of insurance, medical and health benefits creating dispensary facilities etc. The Government of India should also create some mechanism to provide social security to the waste picker women of the country. The cess can also be utilized to create a revolving fund which can become a

source of support to co-operative of waste pickers which is always short of funds.

19. The Petitioner has no other alternative equally efficacious remedy available to the Petitioner and the reliefs claimed if granted would be adequate and complete.
20. The Petitioner has not filed any other proceedings in any Court of competent jurisdiction in respect of the subject matter of the present petition.
21. The Petitioner prays:
 - (A) That the Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, direction or order and be pleased to command the Respondents no.3, 4 and 5 to appoint a High Powered Committee to frame a policy and mandatory rules for preserving and enhancing employment of waste pickers all over India by integrating them into city and solid waste management policies with special reference to the right to work and life of women and Valmiki and Dalit community in lines of what is suggested by the Petitioner in para-18 above;
 - (B) That the Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, direction or order and be pleased command the Respondents no.1, 2 and 3 to appoint a High Powered Committee to look into the problems of waste pickers of Ahmedabad and other cities of Gujarat to frame a policy and mandatory rules for preserving and enhancing employment of waste pickers of Ahmedabad and other cities of Gujarat by integrating them into city and solid waste management policies with special reference to the right to work and life of

women and Valmiki and Dalit community in lines of what is suggested by the Petitioner in para-18 above;

- (C) That the Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, direction or order and be pleased to command the Respondents no.1 and 2 to invite tenders in respect of any area or ward within their jurisdiction for waste picking giving precedence to co-operative societies whose members are only traditional waste picker women belonging to Valmiki and Dalit society;
- (D) That the Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, direction or order and be pleased to quash and set aside the decision of the Respondent no.1 pursuant to the Resolution No.356 of its standing committee dated 02.07.2009 and be pleased to permanently restrain them from awarding the contract of waste picking by contract or otherwise to the Respondent no.8 or any such other private organization in respect of the Vejalpur area of the city of Ahmedabad with effect from 01.10.2009 or any other date;
- (E) That pending the hearing and final disposal of this petition, the Hon'ble Court be pleased to direct the Respondent no.1 Corporation to continue the contract of waste picking to Shree Karyasiddh Kagad Kam Mahila Sewa Sahakari Mandli Limited till fresh tenders are invited specifically giving precedents only to co-operative societies whose members are waste picker women from the Valmiki and Dalit society and who is willing to do the work of waste picking through its members;

- (F) That pending the hearing and final disposal of this petition, the Hon'ble Court be pleased to permanently restrain them from awarding the contract waste picking by contract or otherwise to the Respondent no.8 or any such other private organization in respect of the Vejalpur area of the city of Ahmedabad with effect from 01.10.2009 or any other date;
- (G) For costs;
- (H) For such other and further reliefs as the circumstances of the case require.

AND FOR THIS ACT OF KINDNESS, THE PETITIONERS SHALL AS IN DUTY BOUND FOREVER PRAY.

Place : Ahmedabad
Date : .09.2009

[BHUSHAN OZA]
Advocate for the Petitioner

AFFIDAVIT

I, Jyoti Macwan, General Secretary of the petitioner abovenamed, do solemnly affirm that what is stated in paragraphs _____ above is true to my knowledge and what is stated in paragraphs _____ above is stated on information and belief and I believe the same to be true. Paragraph _____ is a prayer clause. I further state that the documents annexed to the petition are true copies of the originals.

Solemnly affirmed this ____ day of September 2009 at Ahmedabad

DEPONENT