
(2015) 04 RAJ CK 0168

In the Rajasthan High Court

Case No : Civil Writ Petition (PIL) No. 7477 of 2014

Bhagirath and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 22-04-2015

Acts Referred:

Citation : (2015) 04 RAJ CK 0168

Hon'ble Judges : Govind Mathur, J; Jaishree Thakur, J

Bench : Division Bench

Advocate : Sanjeet Purohit, for the Appellant; P.S. Bhati, AAG assisted by S.S. Rathore, Advocates for the Respondent

Judgement

1. The Government of Rajasthan decided to construct a Railway Over-Bridge at LC No. 119 but subsequently decided to change its location to LC No. 121. The decision of the Government with regard to location for construction of the Railway Over Bridge was challenged before this court by way of filing S.B.Civil Writ Petition No. 7227/2012 and D.B. Civil Writ Petition (PIL) No. 13069/2012. In the writ petitions aforesaid, directions were given to the Chief Secretary, Government of Rajasthan to take a decision upon the representations of the petitioners as already made or as stated to be made after extending an opportunity of personal hearing to the petitioners and to the other authorities concerned. Until final decision of the Chief Secretary, the proceedings for the work in question were kept in abeyance. The Chief Secretary decided the matter on 25.11.2013 and arrived at the conclusion that ROB at LC No. 121 of Railway Under Bridge (ROU) near LC No. 119 is justified. The petitioners Bhagirath Swami and Kishan Saharan have again approached this court in public interest challenging the decision of the Government of Rajasthan for construction of ROB at LC No. 121. As per the petitioners, the Government has not examined the entire matter objectively and the decision shall spoil the entire research work undertaken by the Swami Keshwanand Rajasthan Agricultural University, Bikaner by its Agricultural Research Station as well as Rajhans Nursery in the town of

Sriganganagar.

2. According to the averments made in the petition for writ, the decision with regard to construction of ROB at LC No. 119 was changed with certain extraneous considerations and the changed decision is not in public interest. It is pointed out that the experts found the ROB at LC No. 119 to be more feasible and suitable than any other location in the town of Sriganganagar. To substantiate the contentions, he has placed reliance upon the feasibility report i.e. the document (Annex.8). It is also stated that the Agricultural Research Station, Sriganganagar was established in the year 1927 and since then it has contributed a lot in the fields of Plant Breeding, Agronomy, Entomology, Plant Pathology and Agricultural Chemistry. At present various projects are being carried by the Agricultural Research Station, Sriganganagar out of which 08 projects relate to Indian Council for Agricultural Research, 09 projects are under Regional Research scheme and several other projects for agricultural research information system. It is also brought to the knowledge of the court that huge number of fruit plants are standing on the land i.e. required to be taken over by the State for constructing the ROB at LC No. 121. Much emphasis is given by learned counsel for the petitioners to the fact that Swami Keshwanand Rajasthan Agriculture University, Bikaner too was not agreeable for using its land to construct the Railway Over Bridge.

3. Learned Additional Advocate General on the other hand states that the State Government acted in larger public interest and on the basis of information availed by the experts, a bonafide decision was taken for constructing the Railway Over- Bridge at LC No. 121. He has pointed out certain documents to substantiate this aspect that the University was having no objection in handing over its land for construction of the ROB.

4. A reply to writ petition has also been filed on behalf of Swami Keshwanand Agriculture University, Bikaner stating as under:

"11. That so far as the averments raised in para No. 3(xiv) to 3(xvii) of the writ petition are concerned, they stand denied as alleged by the petitioners. Though conditional permission was given but neither the possession of the land till date was handed over to the State Government nor any resolution from the Board of Management was passed in this regard. Further more as per the letter dated 20.06.2012 it has been clearly mentioned by the State of Rajasthan, Krishi (Gr.3), however neither any compensation has been paid nor any adjoining land is been provided to the answering respondent and without taking the possession from the answering respondent the four staff quarters been demolished by the Ircon International Company for which as per the direction of the Registrar an FIR has been lodged on 02.12.2014. The copy of the letter dated 02.12.2014 addressed to SHO P.S. Jawahar Nagar, Sriganganagar are produced herewith and marked as Annexure-R/1 and Annexure-R/2. It is also relevant to mention here that the Estate Officer of the university had given a factual report about the construction of ROB at LC 121 on 01.11.2014, this factual report was accepted

by the Hon''ble Vice Chancellor. The photocopy of the office report collectively along with other letters written by Vice Chancellor, Registrar, Director Research are produced and marked as Annexure-R/3. Until and unless the property legally handed over to the authorities no body has got right on the said property. However, transfer of the property the power has been delegated to the Hon''ble Chancellor as per the section 35(2) with the Rajasthan Agriculture University Act, 1987. Even the land which belongs to answering respondent that property is not been transferred nor it is been notified in gazette. As per the information from Town Planner the said road has not been approved by the town planner. By the answering respondent various communication have been made indicating that ROB should not be constructed at LC 121. This land comes nearly 930x20 meters, which as per the market value of 2015 is more than 4 crores.

17. That so far as the averments raised in para No. 3 (xxv) of the writ petition are concerned, they stand admitted. However, it is not in the knowledge of the answering respondent whether the petitioner had made the answering respondent party or not and whether notice has been issued or not but no notice was received from the Hon''ble Chief Secretary while deciding the representation in the light of above mentioned writ petition.

20. That so far as the averments raised in para No. 3(xxviii) and 3(xxix) of the writ petition are concerned, they stand admitted. Further more the said company neither taken any permission nor possession which were neither handed over to the said company or any authority of the state government have demolished the four staff quarters including boundary wall and research orchard, therefore, the answering respondent has lodged an FIR by letter dated 02.12.2014.

27. That so far as the averments raised in ground 8.1 to 8.21 of the writ petition are concerned, in this regard, it is submitted as per the Rajasthan Agriculture University Act, 1987 this property belongs to the answering respondent and the Board of Management is the custodian of the properties. No such resolution was approved by the Board of Management. However, due to the pressure from the higher authorities a letter was written on 12.06.2012, this was a conditional permission. Further more neither the cost of the four staff quarters nor the land which was agreed to be given to the answering respondent till date has no been given and neither the State Government legally and lawfully took the possession of the land at ROB LC 121 measuring 930 x 20 meters. Without any authority construction company namely Ircon International Ltd. Has demolished the four quarters, therefore, the competent authority namely Zonal Director, Research has lodged an FIR on 02.12.2014 in the SHO P.S. Jawahar Nagar, Sriganganagar. It is also relevant to mention here that apart from the relentless the various people of Sri Ganganagar and including the staff members have lodged objections for the construction of the ROB at LC 121. The copy of the letter dated 12.06.2012 is produced and marked as Annexure-R/5.

28. That it is very unfortunate that neither the compensation was paid nor any land in lieu of the land which comes under ROB has been given to the answering

respondent. It is further prayed that this land should be adjacent and as per the map the adjacent land belongs to Rajhans Government Agriculture Nursery, therefore, it is humbly prayed that before starting any further construction work, the State Government may directed including UIT to handover the land in question since the answering respondent is research institution dealing the research work which not only help the people of Rajasthan but also to the farmers of Sri Ganganagar. At present various projects for research are being carried out at Agricultural Research Station, Sriganganagar and it is having its budget in lacs of rupees. Such huge amount is spent in the research worked carried for purpose of 8 projects for Indian Council of Agricultural Research (ICAR), 9 projects under Regional Research Scheme under State Plan, works for Agricultural Research Information System, Agro- Metrological and Weather forecasting, Ad-hoc projects, projects under the Technology Mission in Cotton, Projects under the Rastriya Krishi Vikas Yojana (RKVY), Projects funded by other agencies and Testing of Bt Cotton Varieties, Chemicals, Herbicides and Molecules. Under such projects the research work is carried out from more than 20 years and also the fruit plants are presently standing from such a long period of time. Such projects are developed after the timeless efforts of the scientists of Agricultural Research Station for the welfare of not only the farmers of Sri Ganganagar but also be widely effects as the horticulture plants would be uprooted the previous Germplasm would be lost. The scientists have for the period of 40-50 years have carried out vital research in the above stated projects, which has led to increase in the productivity, reduction of plant diseases and increase in market value of the fruits. The under fruit plants in the district have also increased from 1500 hectares to in 1990 to 14000 hectares in 2010. The significant achievement by the Research Station of establishing Tissue culture Laboratory has further led to development of virus free Kinnow Plants which has brought revolution in increasing the quality and growth of such fruits. It is also important to mention here that Agricultural Research Station has significant role in maintaining ecological balance and micro-climate in Sri Ganganagar district. The valuable contributions made by the Agricultural Scientists of Agricultural Research Station, Sri Ganganagar have helped the nation in maintaining the balance between its population growth and agricultural production. In order to increase the productivity, improve quality and profitability, rigorous efforts are still being carried out by the scientists of this institute despite of the population pressure. The activities and the research carried out at such places is the pride of Rajasthan in the field of Agricultural Research and Technological Development.

In view of this answering respondent is filing the reply reserving to right to file additional reply if needed. Even otherwise if the letter dated 12.6.2012 whereby the letter has been written by Hon"ble Vice Chancellor and the Vice Chancellor has desired the bridge may be constructed as T-type, if the proposal of letter dated 12.06.2012 will accepted then no land of the answering respondent is need to be taken. The copy of the map is also produced and marked as Annexure-R/6."

5. From perusal of the facts averred in reply to the writ petition filed on behalf of Swami Keshwanand Agriculture University, Bikaner, is apparent that under the instructions of the Government of Rajasthan, the company that is having contract for constructing the ROB, without any authority entered into the land of the University and demolished certain buildings including the staff quarters. The contractor also uprooted several trees. On asking, learned counsel for the State failed to point out the day on which the University surrendered its land to the State Government and also availed permission to raise the construction.

6. Be that as it may, the averments contained in the reply filed on behalf of the respondent University are sufficient to establish that the land in question has yet not been handed over by the University to the State Government and the State Government entered in it without having any authority of law. It is also strange that no action has yet been taken by the police authorities on the first information report dated 02.12.2014 lodged at Police Station, Jawahar Nagar, Sriganganagar. The most strange part is that demolition of building has taken place during the pendency of this petition for writ.

7. Having considered all these facts, we deem it appropriate to restrain the State Government from proceeding further with the construction work of Railway Over-Bridge on the land that is part of Agricultural Research Center owned by Swami Keshwanand Agriculture University, Bikaner. The State Government shall also explain as to why no action has yet been taken by the Station House Officer, Police Station Jawahar Nagar, Sriganganagar on the first information report submitted on 02.12.2014 by the officers of Swami Keshwanand Agriculture University.

8. Put up on 28.05.2015.