
(2009) 04 P&H CK 0154
In the Punjab And Haryana At Chandigarh

Madan Pal and Another

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 15-04-2009

Acts Referred:

Citation : (2009) 154 PLR 591

Hon'ble Judges : Tirath Singh Thakur, C.J.; Hemant Gupta, J

Bench : Division Bench

Judgement

Hemant Gupta, J.—The present petition, in public interest, is to claim a writ of mandamus directing the respondents to immediately make suitable provisions for opening the road crossings closed at six points as shown in the site plan, Annexure P-1 and for directing the respondents to make provisions for constructing under path, fly over, T. Junctions near the villages.

2. The present petition has been filed by the residents of five villages namely Khandsa, Mohamadpur Jharsa, Narsinghpur, Begampur Khatola and Kheriki Daula situated in Tehsil Gurgaon. The grievance of the petitioners is that National Highway No. 8 from Delhi to Rajasthan through Gurgaon was having crossing at six points within the distance of 8 Km. Such points facilitated the villagers to cross the road and to facilitate their movement to Gurgaon and other places to earn their livelihood or to attend educational institutions. But all these six points have been closed. Now, if a person has to cross the road, he has to travel not less than 6 Km. towards Rewari and in this way he has to travel 10-12 Kms. It was alleged that an ordinary person is to simply cross the road to reach his house or to take cattle across the road but he has to travel long distance on account of stopping of the points. It is pointed out that in view of demonstration, strikes and Darnas by villagers, a joint inspection report was submitted which proposed construction of bridges, under pass and pedestrian crossing. The petitioners claimed that the respondents are under legal obligation to first provide the suitable arrangement for crossing the road for the villagers to avoid their additional travel of more than 12 Km. to reach at a distance of 100 Mtrs.

before closing the openings provided in Annexure P-1.

3. Separate written statements have been filed on behalf of respondents No. 1 and 4 and on behalf of respondents No. 2 and 3. It has been pointed out by respondents No. 1 and 4 that National Highway No. 8 has been declared as super Highway for running the smooth traffic. At every point, the villages have been connected with service road. Fly-Over has been constructed at Rajive Chowk, IFFCO Chowk and on the demand of the petitioners, action has been initiated for construction of path to facilitate the villagers for crossing the road. Reference has been made to acquisition of land for construction of under pass at Hero Honda Chowk. Five points of construction of Foot Over Bridges have been selected out of which two points at RD 26.200 and 26.915 have been finalized and construction work allotted. In respect of three Foot Over Bridges, the process of completing the formalities has been initiated. It is the stand of the State that in respect of opening the road crossings at various points, the matter pertains to National Highway Authority of India.

4. In a reply filed on behalf of respondents No. 2 and 3, it has been pointed out that the Project for Conversion of Delhi Gurgaon Section of National Highway-8 into an access controlled eight/six Lane Highway from KM 14.300 to KM 42.00 on Build, Operate and Transfer basis is unique and is one of the best designs available in this part of the world. It is designed for speed of 85 KMPH and, therefore, this kind of speed, for smooth flow of traffic and for safe passage of all motorists that traverse this Section of expressway, it is not possible to cross the road. The width and design of the Highway is such that it makes it almost impossible to cross over. It has been further pointed out that sufficient number of underpasses, cattle passes and via ducts below the flyovers have been provided throughout the Access Controlled Highway for crossing of the pedestrians and as well as the vehicular traffic. 6 Under Passes/4 Cattle Passes besides 2 Foot Over Bridges shown in blue colour are provided at various chainage in between KM 14.300 to KM 42.000. 3 culverts and 14 Viaducts underneath the Fly Overs has been designed, constructed on 27.700 Kms. Long Highway. The problem agitated in the writ petition has been blown out of proportion and is not so grievous as projected by the petitioners. While planning Under Passes, Foot Over Bridges, the entire over all planning across the 27.700 long stretch in contiguity has to be taken into consideration coupled with the financial viability and cost reduction factors and not from the point of view of a particular individual or village in isolation. It has been further pointed out that five villages referred to the petitioners falls between KM 35.000 to KM 42.000 and in this 7 Kms., 2 pedestrian under passes at chainage CH:35.100 and 40.475, have been planned in the project and are functional. There is culvert at chainage CH 35.510 as well.

5. In addition thereto, Mr. Alok Jain, learned Counsel representing respondents No. 2 and 3 has pointed out that 5 Under Passes and 2 Foot Over Bridges are proposed to be constructed between Km.35.00 to 42.00 Km. in addition to the existing facilities of viaduct, pedestrian crossing and under passes etc. It is thus

pointed out that sufficient number of openings for crossing the Express Highway has been provided either by way of Under Passes, Foot Over Bridge, Pedestrian Crossing or Viaduct. The pedestrians can pass across the road by not taking long detour as alleged in the petition but by traveling a kilometer or so.

6. The Express Highway has been provided to cater to the heavy traffic on National Highway⁸. The individual right of the petitioners has to give way to the larger public interest. Some inconvenience to the petitioners to go across the road by the shorter route is out weighed by larger public interest. If large number of openings are provided as sought by the petitioners, it would defeat the very object of building an Expressway. The movement of traffic at high speed will in fact endanger the life of the pedestrians. Therefore, the decision to permit the limited Pedestrian Crossings, Foot Over Bridges and Via ducts cannot be said to defeat any of the rights of the petitioners.

7. It appears that the State Government is aware of the problem and has taken steps for construction of Foot Over Bridges. The construction work of 2 Foot Over Bridges has been undertaken whereas in respect of remaining 3, the allotment work is in progress. Therefore, we deem it appropriate to dispose of the present writ petition with a direction to respondents to immediately take steps for completion of work of Foot Over Bridges and Under Passes as early as possible so as to mitigate the difficulties encountered by the residents of nearby area.

8. With the said direction, the writ petition stands disposed of.