
(2015) 04 MP CK 0114

In the Madhya Pradesh High Court

Case No : Writ Petition (P.I.L.) No. 21021 of 2013

Sharda Shukla

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 28-04-2015

Acts Referred:

Citation : (2015) 04 MP CK 0114

Hon'ble Judges : Rajendra Menon, J;M.C. Garg, J

Bench : Division Bench

Advocate : Sanjay Verma, Learned Counsel, for the Appellant; O.P. Namdeo, Learned SC, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Rajendra Menon, J.

1. Petitioner, who is a resident of Village Mand Tehsil-Raghuraj Nagar, District-Satna has filed this writ petition in public interest and the grievance of the petitioner is that there was an unmanned railway crossing across a public route situated in Village-Mand. This railway crossing connects near about dozens of villages and is the only route available for connecting these villages with National Highway No. 75, which is about 4 km away from the railway crossing. It is said that the villages and agriculturists in the area are using the said railway crossing for transportation of various agricultural produce. It is said that except this route, there is no alternate route for use of the villagers.

2. Grievance of the petitioner is that the respondent/Railway Administration has now abolished the railway crossing and in place thereof, have constructed an under-bridge. However, it is said that the under-bridge is very small and agricultural equipments including tractors with loaded trolleys and other vehicles cannot pass through the same. Accordingly seeking a mandamus to the respondents not to abolish unmanned railway crossing and to further provide better and sufficient option for movement of vehicles, this writ petition is filed.

3. Respondents have filed the detailed reply and point out that as far as abolishing of the unmanned railway crossing is concerned, the prayer cannot be allowed as the Hon''ble Supreme Court in an order passed in W.P. No. 162/2001 has specifically directed for elimination of all level crossing by following one of the following methods during the five years period 2010-15. As per the directions of the Hon''ble Supreme Court, it is said by the respondents in the return that the level crossing has to be replaced in the following manner:

"i. Closure of unmanned level crossing having negligible traffic

ii. Diverting road to an other level crossing

iii. Construction of limited Height subway based on pattern of traffic, bank height and other feasibility

iv. Normal height sub way, based on pattern of traffic, bank height and other feasibility

v. Construction of ROB where normal height sub way can not be constructed and there is heavy traffic"

4. Accordingly, the respondents contend that the first prayer of the petitioner not to remove the unmanned railway crossing cannot be granted. It is pointed out that after the orders were passed by the Hon''ble Supreme Court, the guidelines and instructions have been issued by the Railway Board vide Annexure-R1 and R2. One of the alternate option as per these guidelines was to construct a railway under-bridge on the level crossing wherever possible. It is said that after due survey and after approval of the competent authority including No Objection from the Collector, for the level crossing in question, a railway under-bridge has to be constructed, it has become operational and in Paragraph-5 of the return, the respondents make various assertions and deny the contention of the petitioner that the specification and design of the railway under-bridge does not permit movements of vehicles like agricultural equipments, trolleys etc. In the return filed, the respondents say that the normal height Trucks/Mini Trucks, Mini Buses, Tractor Trolleys, 108 Ambulance and Cars can very conveniently pass through the under-bridge constructed. For the sake of convenience, the assertions made in Paragraph-5 reads as under:

"That, it is respectfully submitted that the grievance of the petitioner is uncalled for and apprehensive. From this LC on and average 43 road vehicles were passing. Looking to pattern of traffic and bank height the R.U.B. Which has been constructed is 3mts wide, at the cost of Rs. 38 lacs as per guide lines. As per specifications issued by the Railway Board has already been completed and is functional. From this RUB normal height Trucks/Mini Trucks, Mini Buses, Tractor Trolley, 108 Ambulance and Car etc. can pass through it without any difficulty."

5. That apart, in Paragraph-7, respondents have also stated that there is also an alternate manned level crossing about 2 km ahead of the present site known as Level Crossing No. 6 which also leads to the villages Mand via Mohana, therefore,

the apprehension of the petitioner that there is no arrangement for passing of heavy vehicles is denied by the respondents.

6. After the aforesaid return was filed, the petitioner has not filed any rejoinder but during the course of hearing, learned counsel for the petitioner tried to argue that the Railway Administration as per the circular and the mandate of the Supreme Court have to remove the unmanned railway crossing and are required to replace the same by the manned railway crossings and, therefore, their action is unsustainable.

7. We have considered the rival contentions and we find that two grievances are made by the petitioner in this writ petition and the reliefs claimed are also two. As far as the first relief for prohibiting the Railway Administration from removing the unmanned railway crossing is concerned, this relief cannot be granted because the Railway Administration has decided to abolish the unmanned railway crossing in view of the specific directions issued by the Supreme Court, therefore, this prayer of the petitioner cannot be allowed.

8. The second question is as to whether the alternate RUB namely, Railway Under-bridge constructed is convenient or is required to be interfered with on the basis of the assertions made by the petitioner as already indicated herein above. In Paragraph-5 and 7 of the return, respondents have clearly indicated that the railway under-bridge has been constructed in accordance with the alternate option and directions issued by the Hon'ble Supreme Court. The under-bridge permits passage of vehicles as per the specifications indicated in Paragraph-5 and an alternate route for other heavy vehicles is also available as indicated in Paragraph-7 of the return.

9. Taking note of all these circumstances, we see no reason to interfere into the matter. Merely because the under-bridge constructed is not to the liking of the petitioner, interference in the matter is not called for by this Court. That apart, along with the return, the respondents have filed various photographs showing movements of various vehicles and, therefore, in the facts and circumstances now, no further indulgence into the matter is called for.

10. The petition is accordingly, dismissed.