
(1995) 09 SHI CK 0011
In the High Court Of Himachal Pradesh
Case No : CWP No. 398 of 1995

Suresh Chauhan

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 27-09-1995

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1995) 4 ILR HP 2355

Hon'ble Judges : S.N. Phukan, C.J.; Bhawani Singh, J

Bench : Division Bench

Advocate : R.K. Bawa, for the Appellant; Indar Singh, General for Respondents No. 1 to 3 and K.D. Sood, for the Respondent

Final Decision : Dismissed

Judgement

S.N. Phukan, C.J.—The writ Petitioner is a Member of the Block Development Smiti (Kedi Bijmal), Tehsil Chopal, District Shimla, and he has filed the present writ petition by way of public interest litigation. He is the resident of village Shathawal, Tehsil Chopal. According to the writ Petitioner, the Government for the purpose of meeting the long demand for the road of the villagers, who are the residents of villages, Batewari, Shathawal, Kelali, Dhar, Ghuntari, Bijathal, Shundal, Tikkari, Poriya, Silori, Lathtari and Mukharandli, sanctioned the road, namely, Nerwa - Paban road via Silori and Bijamal. The survey was conducted by the Public Works Department in the year 1982, which was also approved and sanctioned for the construction of the above road. According to the writ Petitioner, the above road would cater the needs of all the aforesaid villages. The work of construction of the aforesaid road was started in the year 1985-86 and it has been completed upto village Shirguldhar and the next village to be covered was village Batewari but suddenly the Respondents made a drastic change in the old survey and all the aforesaid villages were left out. It has been alleged that according to the new proposed survey the Respondents " shall construct the road through the area, known as, Kima Chandrawali upto village Silori. It has been

alleged that all the above 12 villages would be deprived if the road is constructed on the new alignment. It has also been alleged that there is no village except 5 or 6 houses at Kima Chandrawali. The writ Petitioner has also alleged that the change of alignment is due to certain individual influential political persons including one Dula Ram, who is an employee of Uday Singh a defeated candidate in last election of the State Legislative Assembly. According to the writ Petitioner, the Respondents in order to give undue advantage to five and six families are depriving more than 500 people from the facility of the road with mala fide intention. It has also been urged that the proposed road upto village Silori is 7.5 Kms. whereas according to the new alignment the length of the road will be 12.5 Kms. and more amount will be spent for the purpose thereby causing loss of public exchequer. The Petitioner has further alleged that the Respondents shall have to resort to hard blast as the entire area is a rocky one in case the proposed new construction of the road is taken up. Hence the present petition.

2. in the reply-affidavit filed on behalf of the Respondents, it has been denied that the alignment of the road is being changed due to vested interests or personal prejudice of influential persons. It has also been denied that earlier there was any survey regarding the alignment, as alleged by the Petitioner. According to the Respondents, if the road is constructed as per alignment the following villages will be covered, namely, Gurat, Datrog, Kima Chandrawati. Baghor, Chandrauli, Bahan, Pujarii, Batewari, Silori, Shunal, Poliya, Mukhrandli, Bhatewari, Bijmal, Halau and it will also join the village Paban. It has also open stated that the people of this area (sic) facing great hardship to carry their agricultural produce, like, apples, potatoes in the absence of proper road and they are also finding it difficult to attend tehsil or district headquarters without proper means of conveyance. A specific statement has been made that the area through which this road is proposed to be constructed is one of the most interior and backward area of Tehsil Chopal. This proposal was also finally approved by the Government and necessary administrative and expenditure sanction was accorded. According to the Respondents, the alignment of the road has been kept the same as was envisaged in the preliminary estimate approved by the Government which was technically and economically best suitable for optimum benefit to the people of the area except at the take off point from Shallu Dhabas road and it was changed in view of the objection raised by the villagers of village C-Kiar. It has also been stated in the reply - affidavit that the contention of the Petitioner showing the alignment at Annexure P-1 to the writ petition is a piece of imagination.

3. Heard learned Counsel for the Petitioner, learned Advocate General for Respondents 1 to 3 and also Mr. K.D. Sood, learned Counsel for Respondent No. 4.

4. In such matters of this nature jurisdiction of this Court while invoking Article 226 of the Constitution is limited. This is pure policy decision and it can be interfered with if it is arbitrary, against public policy or mala fide.

5. Though mala fide has been alleged, there is nothing on record to show that the road proposed to be constructed is under the influence of any political pressure. Therefore, this contention is rejected.
6. Now let us consider the benefit which has been derived by proposed construction of the road as per the plan of the Public Works Department.
7. The writ Petitioner has submitted a Map vide Annexure P-1. We have compared this map with the map submitted by the Respondents vide Annexure RB. From the map Annexure RB, we find that most of the villages, as indicated by the Petitioner, will be covered as maximum distance from the proposed road to one village will be 800 meters, which distance is not much in this hill State. In addition more villages will be covered by the road in question.
8. On the top of that, the Public Works Department is an expert body and they have to decide the alignment of the road, which this Court cannot interfere.
9. From the maps produced by the Petitioner as well as by the Respondents, we do not find any arbitrariness. We also do not find that the proposed road is against the public interest. Regarding mala fide, we have already stated that no case is made out by the Petitioner.
10. Therefore, present petition has no force and, accordingly, it is dismissed.
11. Costs on the parties.