

(2021) 07 KL CK 0372
In the High Court Of Kerala
Case No : Writ Appeal No. 792 Of 2021

V. Varghese

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 30-07-2021

Acts Referred:

Constitution of India, 1950 — Article 226
National Highways Act, 1956 — Section 3A, 3A(1), 3B, 3C, 3C(1), 3C(2), 3C(3), 3D,
3D(1), 3D(3), 3G, 3H(1)
Kerala High Court Act 1956 — Section 5

Citation : (2021) 07 KL CK 0372

Hon'ble Judges : S.Manikumar, CJ;Shaji P.Chaly, J

Bench : Division Bench

Advocate : S.Sreekumar, Mathew George, Elizebath George, S.Biju, I.Sheela
Devi, Aravinda Kumar Babu

Final Decision : Dismissed

Judgement

Shaji P. Chaly J.

1. The captioned writ appeals are filed by the petitioner in the writ petition against the common judgment rendered by the learned Single Judge in W.

P. (C) Nos. 38437 of 2018 and 17505 of 2020 respectively, dated 09.04.2021. The subject issue relates to acquisition of land initiated by the National

Highways Authority of India (NHAI) under Section 3-A of the National Highways Act, 1956.

2. W. P. (C) No. 38437 of 2018 was filed seeking to quash Ext. P6 notification issued by the Government of India, Ministry of Road Transport and

National Highways dated 08.06.2018, issued in accordance with the powers vested under Section 3-A of the National Highways Act, 1956, to acquire

various properties for widening of National Highway 66 and construction of four

lane road in which property of the petitioner was included. Objections were called for from the property owners, to be submitted before the Deputy Collector (Land Acquisition), Thiruvananthapuram. At the outset it is clarified that earlier two notifications were issued which were lapsed consequent to the failure of the authority to make declaration under section 3D of the act 1956 within one year. Appellant had also sought direction to the respondents to proceed with the acquisition, in accordance with the alignment plan prepared by M/s. Inter Continental Consultants (P) Ltd., as of 2009, and approved by the NHAI and the Central Government, evident from Exts. P4 and P5 notifications dated 24.12.2009 and 27.03.2012, respectively.

3. W. P. (C) No. 17505 of 2020 was filed seeking to quash Ext. P10 communication issued by the Public Works Department, Government of Kerala dated 01.02.2017 to the Regional Officer, National Highways Authority of India, Thiruvananthapuram informing that the State Government have examined the alignment option received along with the letter dated 09.01.2017 issued by NHAI bearing No. NHAI/RO-Kerala/TVM/24013/2015/07 and conveying that the alignment option is found to be acceptable in general. However it was pointed out that authority could not follow the concentric widening with respect to the central line of existing alignment for a considerable length due to the proximity of religious structures. It was also stated that the details of structures affected due to the alignment are not shown in the drawing, however the Government approved the alignment option in general. Other consequential directions were also sought for by the petitioner.

4. The learned Single Judge after taking into account the contentions put forth by the petitioner and basically relying upon the judgment of the Hon'ble Apex Court in Union of India v. Dr. Kushala Shetty and others [(2011) 12 SC 69] and assimilating the legal situations contained under Sections 3-A, 3-C and 3-D of the National Highways Act, 1956 held that the change in alignment departing from the alignment of the year 2009, and the alleged hardships caused to the petitioner on account of the acquisition is not legally sustainable in view of the provisions contained under Section 3-C(1), and that such a contention cannot be entertained as it is not an objection to the user of the land as contemplated in the said provision. Learned Single Judge has also found that the feasibility of the alignment cannot be gone into by a writ

court, exercising the powers under the writ jurisdiction.

5. That apart it was held that there is substance in the contention of the NHA that the old alignment before the 2009 notification can have no

relevance at this distance of time. It was also found the alignment is fixed by experts in the field, considering various parameters and the writ court

has no competence to consider the objections regarding the alignment.

6. Having found so, the writ court absolutely relied on the judgment of the Honâ??ble Apex Court in Dr. Kushala Shetty (supra) wherein it was held

that the Courts are not at all equipped to decide upon the viability and feasibility of a particular project, and whether a particular alignment would sub

serve the larger public interest, and held that the scope of judicial review in such matters are very limited. It is thus challenging the legality and

correctness of the said judgment these appeals are preferred.

7. We have heard, Sri. S. Sreekumar, learned Senior Counsel appearing for the petitioner and Sri. K. Sudheer Kumar for the National Highways

Authority of India, New Delhi and perused the pleadings and materials on record.

8. Brief material facts for the disposal of the writ appeals are as follows:-

9. Appellant and one P. V. Rajan are stated to be the absolute owners of 13.18 ares of property in survey No. 381/6 of Pallippuram Village,

Thiruvananthapuram Taluk, Thiruvananthapuram District. The said property is situated on the western side of NH 66 between KM 542/000 to KM

543/000. The NHA decided to acquire lands for the purpose of widening NH 47 (now NH 66) on the stretch KM 522/000 to KM 545/750, Cherthala

â?" Thiruvananthapuram Section, under the provisions of National Highways Act, 1956. Accordingly their consultant M/s. Inter Continental (P) Ltd.

was appointed for preparing the Detailed Project Report (DPR). The consultant prepared the project report and submitted it to the NHA. NHA

approved it and in turn forwarded it to the Central Government for its approval, as required by law. The Central Government also approved the project

and alignment sketch, and accordingly Ext. P3 notification under Section 3-A was issued on 24.12.2009.

10. The case of the petitioner is that as per Ext. P3 notification, an extent of 3.98 cents (159.49 m²) was alone sought to be acquired for the widening,

from the appellant. According to the appellant, appellant did not object to the acquisition and pursuant to the notification, a detailed survey was again

conducted and boundary stones were planted and demarcated the land required for road widening, however declaration as is contemplated under

Section 3-D was not made within a period of one year, consequent to which the said notification elapsed.

11. Subsequently, appellant filed an application before the Secretary of Andoorkonam Grama Panchayat for construction of a commercial building and

Ext. P4 building permit dated 27.09.2011 was issued on condition that prior sanction should be obtained from NHAI before constructing the approach

road from National Highway to the building. According to the petitioner, construction was carried out in terms of Ext. P4 permit after obtaining

permission from the NHAI for constructing the approach road as per Ext. P6 dated 24.02.2015. Thereafter, the Secretary of the Panchayat numbered

the building and issued an ownership certificate on 03.12.2015. It is also stated that the appellant had started business in the said building.

12. In the meanwhile, the competent authority again issued Ext. P5 notification under Section 3-A of Act 1956 dated 27.03.2012, which was also

elapsed for want of declaration under Section 3-D within one year. It was thereafter that the present notification namely Ext. P7 in W. P. (C) No.

17505 of 2020 dated 08.06.2018 was issued, wherein the extent of land sought to be acquired from the appellant in regard to the proposal to acquire

land from KM 517/200 to KM 551/900 in Ochira â?" Thiruvananthapuram section was 0.0275 hectares (6.83 cents), instead of 3.98 cents demarcated

for acquisition in the earlier notifications. It was basically challenging the Ext. P7 notification that the connected writ petition W. P (C) No. 38437 of

2018 was filed.

13. Anyhow, the learned Single Judge after taking into account the objection filed by the NHAI in regard to the various aspects put forth by the

petitioner in the writ petition and taking note of the fact that appellant had not raised any objection within twenty one days in contemplation of section

3C (1) of Act 1956, appreciated the relevant provisions of law, and had arrived at the conclusion that the appellant has not made out a case for

interference exercising the power of discretion under Article 226 of the Constitution of India.

14. The paramount contention advanced by learned Senior Counsel for the petitioner was that the State Government did not have any power to issue

Ext. P10 order described above and therefore the same is without jurisdiction and hence the proposal for acquisition is invalid. It was also submitted

that the said legal issue was not disputed by the NHAI, and even though the said aspect was addressed in detail before the learned Single Judge, it

was not considered by the learned Single Judge. It was also submitted that M/s. Inter Continental Consultants (P) Ltd. has prepared a Detailed

Project Report, taking into account the alignment in the year 2009, which was approved by the Central Government and in the later notification issued

in the year 2012 also, the said alignment was proposed in order to widen the National Highway in question.

15. Therefore the sum and substance of the contention put forth by the learned Senior Counsel was that no change of alignment can be effected

without the sanction of the Central Government and further that the deviation of alignment option was made based on Ext. P10 letter issued by the

State Government and therefore the entire exercise done by the NHAI is illegal and arbitrary which ought to have been interfered with by the learned

Single Judge. It was also submitted that even though in Section 3-C of Act 1956, limited nature of objections can be entertained, that would not stand

in the way of a writ court considering other Constitutional issues raised by the appellant. It was further submitted that the appellant had constructed

the building after the first notification elapsed and therefore the attempt of the NHAI to acquire the land with the building can never be sustained. That

apart it was also submitted that the appellant has no objection in acquiring the extent of land up to the building and further that fairness and interest of

justice requires the building to be exempted. Appellant had also made a vague allegation of malafides as if to appear that the change in alignment was

made to protect the interest of yet another person, however admittedly no details were furnished.

16. We have evaluated the rival submissions made across the Bar.

17. The subject issue as we have pointed out above is guided by the National Highways Act, 1956. Section 3-A deals with power to acquire land and

sub section (1) thereto enables the Central Government to acquire any land, if it is satisfied that the land is required for a public purpose for the

construction of building, maintenance, management or operation of a National Highway or part thereof, by issuing a notification in the official gazette,

declaring its intention to acquire such land. The requirement to be contained in the notification under sub section (1) shall be a brief description of the

land, and the competent authority shall cause the substance of the notification to be published in two local newspapers, one of which will be in a

vernacular language in contemplation of sub sections (2) and (3).

18. On issue of the notification under sub section (1) of Section 3-A, as per section 3-B it shall be lawful for any person authorized by the Central

Government in that behalf to make any inspection, survey, measurement, valuation or enquiry; take levels; dig or bore into subsoil; set out boundaries

and intended lines of work; mark such levels, boundaries and lines by placing marks and cutting trenches; or do such other acts or things as may be

laid down by rules made in that behalf by the Central Government .

19. Section 3-C deals with hearing of objections and sub section (1) thereto specifies that any person interested in the land may, within twenty one

days from the date of publication of the notification under sub section (1) of Section 3-A object to the use of the land for the purpose or purposes

mentioned in that sub section. Other provisions are contained under Section 3-C enabling the objector for a hearing and sub section (3) makes it clear

that any order made by the competent authority under sub section (2) after hearing the objector shall be final.

20. Section 3-D deals with declaration of acquisition wherein it is clearly specified that where no objection under sub section (1) of Section 3-C has

been made to the competent authority within the period specified therein, or the competent authority has disallowed the objection under sub section (2)

of that Section, the competent authority shall as soon as may be, submit a report accordingly to the Central Government and on receipt of such report,

the Central Government shall declare by such notification in the official gazette that the land should be acquired for the purposes mentioned in sub

section (1) of Section 3-A. On publication of the declaration under subsection (1), the land shall vest absolutely in the Central Government free of all

encumbrances by virtue of sub section (2) thereto.

21. On vesting of the land under sub section (2), the amounts on account of compensation shall be determined by an order of the competent authority

as per Section 3-G and deposit the compensation amount as provided under section 3-H (1) of Act 1956. Thereafter the competent authority has the

power to take possession in accordance with the procedure prescribed under section 3-D. These are the important and relevant provisions so far as the acquisition of land is concerned under Act 1956.

22. It is significant to note that no objections were made by the petitioner to the use of the land for the purpose or purposes for which the notification was issued under section 3 (1) of Act 1956. It is also equally relevant to note that the appellant has not raised allegations of any specific malafides on the part of the respondents in the matter of acquisition of the land.

23. Even though the appellant has a contention that after the first notification issued in the year 2009 appellant carried out construction of a commercial building, that will not disable the NHA I under the Act 1956 to proceed to acquire the land with the building on the basis of a new Detailed Project Report prepared by the consultant and a new alignment prepared accordingly.

24. Though, petitioner had a case that the sanction of the Central Government was not secured in respect to the new alignment and therefore the notification issued in the year 2018 for acquisition of a larger extent of land of the appellant cannot be sustained under law, learned Senior Counsel could not point out any provision under the Act 1956 to substantiate the said contention. This we say because, the notification itself was issued by the Central Government as per the powers vested in it under section 3-A of the act since it was satisfied that the land was required for the purposes enumerated there under.

25. As we have pointed out above, the NHA I is guided clearly by the provisions of the Act 1956. There is no case for the appellant that the NHA I has not taken the steps for acquisition, in accordance with the provisions of Act 1956. It is rather significant to note that appellant had not even filed any objection within the time prescribed under section 3 (1), setting out the grounds under which the objections are raised, thus disabling the competent authority to consider the same.

26. It is equally important to note that the appellant has not made out any case of arbitrariness, illegality or malafides on the part of the NHA I to have entertained the writ petition by the learned Single Judge. Any how it was after elaborately considering the provisions of Act 1956 discussed above and taking into account the principles of law evolved in the various judgments of the

Hon'ble Apex Court, the learned Single Judge dismissed the writ

petition. The question with respect to the power of the NHAI and the circumstances and the manner in which an acquisition can be challenged by an

aggrieved person was considered by the Hon'ble Apex Court in Dr. Kushala Shetty (supra) and has found as follows:-

20. The scheme of acquisition enshrined in the above reproduced provisions makes it clear that once the Central Government is satisfied that any land is

required for the building, maintenance, management or operation of a national highway or part thereof, then, it shall declare its intention to acquire such land by

issuing a notification in the official Gazette giving brief description of the land. The substance of the notification is also required to be published in two local

newspapers of which one has to be in a vernacular language. Any person interested in the land can file objection within 21 days from the date of publication of the

notification in the official Gazette. Such objection is required to be made to the Competent Authority in writing. Thereafter, the Competent Authority is required to

give the objector an opportunity of hearing either in person or through a legal practitioner. This exercise is to be followed by an order of the Competent Authority

either allowing or rejecting the objections.

21. Where no objection is made to the Competent Authority in terms of Section 3C(1) or where the objections made by the interested persons have been disallowed,

the Competent Authority is required to submit a report to the Central Government, which shall then issue a notification in the official Gazette that the land should be

acquired for the purpose or purposes mentioned in Section 3A(1). On publication of declaration under Section 3D(1), the land vests absolutely in the Central

Government free from all encumbrances. Sub-section (3) of Section 3D provides that where no declaration under sub-section (1) is published within a period of one

year from the date of publication of notification under Section 3A(1), the said notification shall cease to have any effect. By virtue of proviso to Section 3D(3), the

period during which any action or proceeding taken in pursuance of notification issued under Section 3A(1) remains stayed by a Court shall be excluded while

computing the period of one year specified in Section 3D(3).

22. In this case, notification dated 10.8.2005, which was published in the official Gazette of the same date and of which substance was published in two local newspapers, contained full description of the land proposed to be acquired for widening three National Highways. The names of the villages in which the land proposed to be acquired was situated, the survey numbers including sub-survey numbers, the nature, type and area of the land were also given in the schedule appended to the notification. Not only this, it was clearly mentioned that land plans and other details of the land are available in the office of the Competent Authority. This is the reason why none of the land owners (including the respondents) made any grievance that the notification issued under Section 3A(1) of the

1956 Act was vague or that due to lack of particulars/details, they were prevented from effectively exercising their right to file objections in terms of Section 3C(1). Of

course, a grievance of this score was made in the objections dated 16.10.2006 filed by some of the land owners of Padavu Village, but that was clearly an afterthought

and, in any case, the same did not require consideration because of nonadherence to the time schedule specified in Section 3C(1) of the 1956 Act.

23. The only reason assigned by the Division Bench of the High Court for upsetting the well considered order passed by the learned Single Judge negating the

respondentsâ?? challenge to the acquisition was that declaration under Section 3D(1) was published even before communication of the decision taken by the

Competent Authority in terms of Section 3C(2). The process of reasoning adopted by the Division Bench for recording its conclusion appears to have been

influenced by an assumption that the objections filed by the land owners had not been decided till the issue of declaration under Section 3D(1). However, the fact of

the matter is that the Competent Authority had, after giving opportunity of personal hearing to the objectors, passed order dated 11.10.2005 and rejected the

objections. Though, that order was not crafted like a judicial order which is passed by a legally trained mind, the rejection of the representations made by the respondents cannot be faulted only on that ground.

24. The Competent Authority did advert to the substance of objections, the details of which have been incorporated in Annexure P-3 filed before this Court. The

concerned officer rejected the same by observing that the land proposed for acquisition is necessary for widening the existing National Highways into four lanes. If

the consideration made by the Competent Authority is judged in the backdrop of the fact that a Special Purpose Vehicle was incorporated with the name New

Mangalore Port Road Company Limited for implementation of the project known as New Mangalore Port Road Connectivity Project from Surathkal to Nantoor and

B.C.Road to Padil along with bypass from Nantoor to Padil, it is not possible to castigate the proved reasons recorded by the Competent Authority for rejecting the

objections.

25. The plea of the respondents that alignment of the proposed widening of National Highways was manipulated to suit the vested interests sounds attractive but

lacks substance and merits rejection because except making a bald assertion, the respondents have neither given particulars of the persons sought to be favoured

nor placed any material to prima facie prove that the execution of the project of widening the National Highways is actuated by mala fides and, in the absence of

proper pleadings and material, neither the High Court could nor this Court can make a roving enquiry to fish out some material and draw a dubious conclusion that

the decision and actions of the appellants are tainted by mala fides.

26. A somewhat similar question was considered in *Girias Investment Private Ltd. v. State of Karnataka* (supra). In that case, the acquisition of the land under the

Karnataka Industrial Areas Development Act, 1966 was challenged on various grounds including the one that the acquisition was vitiated due to mala fides. While

rejecting the plea of mala fides, the Court referred to *S.R. Venkataraman v. Union of India* (1979) 2 SCC 491, *State of Punjab v. Gurdial Singh* (1980) 2 SCC 471 and

Collector (D.M.) v. Raja Ram Jaiswal (1985) 3 SCC 1 and observed:

â??14. It is obvious from a reading of the pleadings quoted above that only

vague allegations of mala fides have been levelled and that too without any basis. There

can be two ways by which a case of mala fides can be made out; one that the action which is impugned has been taken with the specific object of damaging the interest of the party and, secondly, such action is aimed at helping some party which results in damage to the party alleging mala fides. It would be seen that there is

no allegation whatsoever in the pleadings that the case falls within the first category but an inference of mala fides has been sought to be drawn in the course of a

vague pleading that the change had been made to help certain important persons who would have lost their land under the original acquisition. These allegations

have been replied to in the paragraph quoted above and reveal that the land which had been denotified belonged to those who had absolutely no position or power.

In this view of the matter, the judgments cited by Mr Dave have absolutely no bearing on the facts of the case.â??

27. We may also refer to the Constitution Bench judgment in *E.P. Royappa v. State of Tamil Nadu and another* (1974) 4 SCC 3. In that case, the petitioner, who was

transferred from the post of Chief Secretary and posted as Officer on Special Duty, challenged the action of government on various grounds including the one that

the decision of the government was vitiated due to mala fides of the Chief Minister. This Court rejected the plea of mala fides by making the following observations:

â??90. â?|. The petitioner set out in the petition various incidents in the course of administration where he crossed the path of the second respondent and incurred

his wrath by inconvenient and uncompromising acts and notings and contended that the second respondent, therefore, nursed hostility and malus animus against

the petitioner and it was for this reason and not on account of exigencies of administration that the petitioner was transferred from the post of Chief Secretary. The

incidents referred to by the petitioner, if true, constituted gross acts of maladministration and the charge levelled against the second respondent was that because the

petitioner in the course of his duties obstructed and thwarted the second respondent in these acts of maladministration, that the second respondent was annoyed

with him and it was with a view to putting him out of the way and at the same time deflating him that the second respondent transferred him from the post of Chief

Secretary. The transfer of the petitioner was, therefore, in mala fide exercise of power and accordingly invalid.

91. Now, when we examine this contention we must bear in mind two important considerations. In the first place, we must make it clear, despite a very strenuous argument to the contrary, that we are not called upon to investigate into acts of maladministration by the political Government headed by the second respondent. It is

not within our province to embark on a far-flung inquiry into acts of commission and omission charged against the second respondent in the administration of the affairs of Tamil Nadu. That is not the scope of the inquiry before us and we must decline to enter upon any such inquiry. It is one thing to say that the second

respondent was guilty of misrule and another to say that he had malus animus against the petitioner which was the operative cause of the displacement of the petitioner from the post of Chief Secretary. We are concerned only with the latter limited issue, not with the former popular issue. We cannot permit the petitioner to

side track the issue and escape the burden of establishing hostility and malus animus on the part of the second respondent by diverting our attention to incidents of

suspicious exercise of executive power. That would be nothing short of drawing a red herring across the trail. The only question before us is whether the action taken

by the respondents includes any component of mala fides; whether hostility and malus animus against the petitioner were the operational cause of the transfer of the

petitioner from the post of Chief Secretary.

92. Secondly, we must not also overlook that the burden of establishing mala fides is very heavy on the person who alleges it. The allegations of mala fides are often

more easily made than proved, and the very seriousness of such allegations demands proof of a high order of credibility. Here the petitioner, who was himself

once

the Chief Secretary, has flung a series of charges of oblique conduct against the Chief Minister. That is in itself a rather extraordinary and unusual occurrence and if

these charges are true, they are bound to shake the confidence of the people in the political custodians of power in the State, and therefore, the anxiety of the Court

should be all the greater to insist on a high degree of proof. In this context it may be noted that top administrators are often required to do acts which affect others

adversely but which are necessary in the execution of their duties. These acts may lend themselves to misconstruction and suspicion as to the bona fides of their

author when the full facts and surrounding circumstances are not known. The Court would, therefore, be slow to draw dubious inferences from incomplete facts

placed before it by a party, particularly when the imputations are grave and they are made against the holder of an office which has a high responsibility in the

administration. Such is the judicial perspective in evaluating charge of unworthy conduct against ministers and other high authorities, not because of any special

status which they are supposed to enjoy, nor because they are highly placed in social life or administrative set up — these considerations are wholly irrelevant in

judicial approach — but because otherwise, functioning effectively would become difficult in a democracy. It is from this standpoint that we must assess the merits of

the allegations of mala fides made by the petitioner against the second respondent. —

28. Here, it will be apposite to mention that NHAI is a professionally managed statutory body having expertise in the field of development and

maintenance of National Highways. The projects involving construction of new highways and widening and development of the existing highways,

which are vital for development of infrastructure in the country, are entrusted to experts in the field of highways. It comprises of persons having vast

knowledge and expertise in the field of highway development and maintenance. NHAI prepares and implements projects relating to development and

maintenance of National Highways after thorough study by experts in different fields. Detailed project reports are prepared keeping in view the

relative factors including intensity of heavy vehicular traffic and larger public interest. The Courts are not at all equipped to decide upon the viability and feasibility of the particular project and whether the particular alignment would subserve the larger public interest. In such matters, the scope of judicial review is very limited. The Court can nullify the acquisition of land and, in rarest of rare cases, the particular project, if it is found to be ex-facie contrary to the mandate of law or tainted due to mala fides. In the case in hand, neither any violation of mandate of the 1956 Act has been established nor the charge of malice in fact has been proved. Therefore, the order under challenge cannot be sustained.â??

27. Moreover, the question with respect to the powers of a writ court to interfere with the acquisition proceedings was considered elaborately by a Honâ??ble Division Bench of this Court to which one of us was a party (Honâ??ble Chief Justice) in W. A. No. 2125 of 2019 and has rendered a judgment dated 15.10.2019 holding that the writ court was right in relying upon the judgment of the Honâ??ble Apex Court in Dr. Kushala Shetty (supra) and further that the scope of judicial review is very limited.

28. Likewise, in W. A. No. 2317 of 2019, a Honâ??ble Division Bench of this Court, to which also the Honâ??ble Chief Justice was a party, has again considered the issue with respect to the notifications issued by the NHAI, DPR prepared and the alignment fixed, and held that the acquisition is a subject matter undertaken by experts in the field and a writ court would not be in a position to interfere with the alignment fixed thereunder.

29. Yet again, in W. A. No. 1456 of 2020, this Division Bench itself had occasion to consider the scope of interference with the notification issued under Section 3-A of Act 1996 and held that interference in the acquisition by the courts would be slow, and it is the responsibility of the Central Government to develop, maintain and properly repair all National Highways.

30. In the writ petition leading to W. A. No. 792 of 2021, appellant has sought to quash Ext. P10 communication issued by the State Government which was discussed above.

31. In our considered opinion the acquisition of land for the purpose of National Highway is the absolute domain of the Central Government and the State Government has no manner of power or authority to interfere with the acquisition of the land. Even though strenuous arguments were made on

the basis of Ext. P10 communication of the State Government by the learned Senior Counsel, on a query raised by this Court as to whether the State

Government has any power to interfere with the acquisition made by the NHAI and the Central Government, learned Senior Counsel could not point

out any provisions under the Act 1956. To top up the legal aspects discussed above, we are of the sure and considered opinion that the alignment of a

highway cannot be altered at the whims and fancies of the individuals, and if the courts start interfering in such matters unnecessarily, no development

would be possible, and it would materially affect the growth of the nation, apart from interfering with avowed objects and policies of the Government.

32. At the most Ext. P10 could be treated as a communication issued by the State Government since that stretch of the National Highway was

managed by the State Government on the basis of permission granted by the NHAI, however when any acquisition is need for the expansion and

widening of the National Highway there is no requirement for the Central Government or the NHAI to make any request under law to the State

Government seeking permission. The State Government is also not vested with any powers to make any suggestion in the matter of maintenance of

the National Highway since it is within the absolute domain and power of the Central Government, and consequently the NHAI.

33. The writ court was called upon only to address the issue as to whether the competent authority had misdirected itself in the matter of acquisition

thus making the process arbitrary and illegal. Taking into consideration the above legal and factual circumstances, we are of the undoubted opinion

that the learned Single Judge was right in dismissing the writ petitions, and therefore we do not find any jurisdictional error or other legal infirmities in

exercising the discretionary power by the learned Single Judge, justifying this Court to interfere in the judgment, invoking the powers conferred under

section 5 of the Kerala High Court Act 1956.

Needless to say, writ appeals fail. Accordingly they are dismissed.