

Court No. - 40

Case :- WRIT - C No. - 32602 of 2023

Petitioner :- Devki Nandan Singh

Respondent :- Union Of India And 6 Others

Counsel for Petitioner :- Sushil Kumar Chaturvedi

Counsel for Respondent :- C.S.C.,A.S.G.I.,Arvind Kumar Goswami

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard learned counsel for the petitioner and Shri Arvind Kumar Goswami, learned counsel for Union of India.

2. Present writ petition has been preferred for following reliefs:-

"(i) Issue a writ, order or direction in the nature of mandamus directing the respondents to made available alternate way to the villagers at Delhi-Mumbai track between Mudesi Rampur & Churaman Nagar at Gate No.L.C. 261, KM UP-1234/13 & KM Down 1234/14, with immediate effect and also be constructed a Railway Over Bridge in place of Railway Under Pass/ Bridge to facilitate the resident of locality/ near the said railway crossing, considering the situation of the spot which is water logging area.

(ii) Issue a writ, order or direction in the nature of mandamus directing the respondents to consider and decide the claim of petitioner contained in representation dated 28.6.2023 (Annexure No.2) for being availed alternate way to the villagers at Delhi-Mumbai track between Mudesi Rampur & Churaman Nagar at gate no.L.C. 261, KM UP-1234/13 & KM Down 1234/14, with immediate effect and also be constructed a Railway Over Bridge in place of Railway under Pass/ Bridge to facilitate the resident of locality/ near the said railway crossing, considering the situation of the spot which is water logging area."

3. This much is contended that the petitioner is permanent resident of Village Umari, Post Kosi Khurd, Tehsil Sadar, Distt. Gorakhpur. Near the village of the petitioner a new railway line namely Delhi-Mumbai Railway Line is passing. The railway department decided to construct an underpass on the site in question, whereas the petitioner and other villagers had been raising objections for construction of railway underpass as the spot is water logging area. Though the railway authorities had given assurance for construction of Railway Over Bridge in place of Railway underpass to facilitate the villagers but no action has been taken in this regard. In spite of the objections being made by the villagers, the contractor made the railway underpass negligently causing huge water logging on the spot and creating obstruction in ingress and egress of the villagers to the main road as well as agricultural field from their residences. In this regard, the villagers including the petitioner had made detailed representation dated 28.6.2023 to the various authorities disclosing all the facts and circumstances of the case and praying to provide alternate way or to construct

railway over bridge in place of railway underpass but no heed was paid by the respondents. Hence the present writ petition has been preferred with aforesaid reliefs.

4. In response to the previous orders passed by this Court, learned counsel for Union of India has produced the letter dated 5.3.2020 sent by the CBE/WCR to the Sr.DEN/Co, JBP, BPL & Kota, which is taken on record. On the basis of said letter, this much is contended that the railway department is serious enough for the problem of water logging in various under bridges, which usually happens during monsoon season. In this regard, several measures have been suggested and even general instructions were also issued. In the general instructions, it is provided that the height of retaining wall should be minimum 500 mm above water level during flood over ground to prevent water to enter into the Limited Height Subways (LHS) from surrounding areas. The size of the sump shall not be less than 3m x 3m. The depth of the sump shall not be less than 3 mtr, measured from the minimum road level. The sump be preferably constructed 3-5 mtr. away from the edge of the LHS. The schematic diagram is shown in approved DRG. No.GM (W)-4934. There shall be extended provision of cover shed at the junction of approach road and LHS road to avoid the shower inside the LHS. A drain with gratings shall be provided to divert the run off water at the junction of approach road. Hump on road side or provision of reverse slope before start of downward ramp to LHS shall be provided to avoid ingress of water inside LHS. Retaining walls should continue along the approach slope upto the hump or from where reverse slop starts. Drainage arrangement will be made an integral part of the LHS. Elaborate drainage arrangement shall also be provided to divert surrounding water. For this purpose, the earth adjacent to the approach segement walls should be dressed opposite to LHS so that water will not come towards the approach segements. A drain may be constructed, if required, parallel to LHS approach at some distance from approach segement walls to drain out surrounding stagnant water away from approaches. In case of existing LHS and sump, the drainage arrangement shall be done suitable for site with the approval of CBE. The minimum height of bottom of truss of covering shed shall not be less than 500 mm of vertical size of box. It was also provided that the aforesaid general instructions should be brought to each level and compliance be ensured. Learned counsel for Union of India, in this backdrop, states that railway department is also serious enough to solve the problem of water logging in the railway underpass and LHS and every sincere efforts shall be made to solve these problems as per the general

instructions as well as the relevant orders issued by the Railway Department in this regard.

5. Considering the facts and circumstances of the case, as well as the categorical instructions sent by the railway department, we **dispose of** the writ petition asking the respondents to look into, examine and redress the grievance of the petitioner in accordance with law and as per the relevant instructions/ orders issued in this regard expeditiously.

Order Date :- 24.11.2023

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