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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7193 OF 2014

Vijay Mohan Dorge & Ors.

.. Petitioners.

Versus

Union of India & Ors.

.. Respondents.

Mr. Sandeep S. Salunkhe, for the Petitioners.

Mr. Rakesh L. Singh, i/b M.V. Kini & Co., for Respondent No.3

**CORAM : A.S. Oka, &
A.P. Bhangale, JJ.**

DATE : 17th April 2015

P.C. :

Heard learned counsel appearing for the Petitioners and the learned counsel appearing for the 3rd Respondent. Prayer clause (a) of this Petition reads thus:

(a) This Hon'ble Court be pleased to issue a writ of mandamus or an other appropriate writ, order, direction in the nature of mandamus, directing Respondents to construct the Underpasses Road/Flyover at the Bhandgaon village on the four lane road of Pune-Solapur Section of National Highway-9 (NH-9).

2. The contention of the learned counsel appearing for the Petitioners is that there is a school by the side of the road in question. He pointed out that a resolution was passed by the Village Panchayat. He pointed out that a complaint was made by the Head Master of the concerned school stating that

the heavy traffic on the road was posing a danger to the students and, therefore, it would be ideal if either an underpass road or a fly over is provided. He invited our attention to the project report of the 3rd Respondent and the information furnished to the Petitioner under the Right to Information Act, 2005. He submitted that earlier proposal moved by the 3rd Respondent for construction of a fly over or an underpass road was cancelled in the light of the letter addressed by one Mr. Ramesh Thorat, Member of the Maharashtra Legislative Assembly. He, therefore, submits that the Writ as prayed should be issued by this Court.

3. We have considered the submissions. By exercising powers under Article 226 of the Constitution of India, this Court cannot direct the authorities to construct a fly over or an underpass road. It is ultimately for the Respondents to take a decision whether the construction of any fly over or an underpass road is necessary.

4. As far as the safety of school children is concerned, the Petitioners can always approach the police authorities with a request to regulate the traffic on the portion of the highway passing through the village in question.

5. It is ultimately for the authorities of the State Government to decide in what manner protection can be granted to the Pedestrians. Subject to what is observed above, no case is made out for interference. The Petition is rejected. However, remedy of the Petitioner to make representations before the appropriate authorities is kept open.

(A.P. Bhangale, J.)

(A.S. Oka, J.)