

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

WP(C).No. 6421 of 2015 (S)

PETITIONER(S) :

**T. GOPALAKRISHNAN, AGED 73 YEARS,
S/O.C.M.KRISHNA PODUVAL, MANNAT HOUSE,
KOKKUR, PONNANI TALUK, MALAPPURAM-679 591.**

**BY ADVS.SRI.K.JAGADEESH
SMT.V.RENJU**

RESPONDENT(S) :

- 1. STATE OF KERALA, REPRESENTED BY SECRETARY,
PUBLIC WORKS DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. ASSISTANT EXECUTIVE ENGINEER, PUBLIC WORKS DEPARTMENT,
NATIONAL HIGHWAY SUB DIVISION, PERINTHALMANNA,
MALAPPURAM DISTRICT-679 322.**
- 3. MANAGING DIRECTOR, ROADS AND BRIDGES
DEVELOPMENT CORPORATION OF KERALA, 2ND FLOOR,
PREETHI BUILDING, M.V.ROAD, PALARIVATTOM, KOCHI- 682 025.**
- 4. CHIEF ENGINEER, (CONSTRUCTION), SOUTHERN RAILWAY,
ERNAKULAM, KOCHI-682 016.**
- 5. REGIONAL OFFICER, MINISTRY OF ROAD TRANSPORT &
HIGHWAYS, GOVERNMENT OF INDIA, PUBLIC OFFICE BUILDINGS,
THIRUVANANTHAPURAM-695 005.**
- 6. EXECUTIVE ENGINEER, NATIONAL HIGH WAY DIVISION,
NATIONAL HIGHWAY AUTHORITY OF INDIA, MALAPPURAM-679 505.**

WP(C).No. 6421 of 2015 (S)

**7. NATIONAL TRANSPORTATION PLANNING AND RESEARCH CENTRE,
NO.19/1429, CHAND NIVAS, KOTTAKKAL ROAD, BAJANA KOIL
JUNCTION, CHALAPURAM P.O., KOZHIKODE-673 002.**

**R1, R2 & R6 BY SR.GOVERNMENT PLEADER SRI.P.I.DAVIS
R3 BY ADV. SRI.M.VIJAYA KUMAR, S.C
R4 BY ADV. SRI.C.S.DIAS, S.C
R5 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R7 BY ADV. SRI.R.KRISHNARAJ, S.C**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 04-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1:** TRUE PHOTOSTAT COPY OF THE G.O.(RT).NO.73/2011/PWD,
DATED 17.01.2011.
- EXT.P2:** TRUE PHOTOSTAT COPY OF THE LETTER ISSUED BY THE SENIOR
DIVISIONAL ENGINEER OF SOUTHERN RAILWAY DATED 08.12.2011.
- EXT.P3:** TRUE PHOTOSTAT COPY OF G.O(RT) NO.1540 OF 2011/PWD
ALONG WITH ANNEXURE A-11 MENTIONED THEREIN
DATED 09.11.2011.
- EXT.P4:** TRUE PHOTOSTAT COPY OF THE G.O(RT) NO.559/2012/PWD
DATED 31.03.2012.
- EXT.P5:** TRUE PHOTOSTAT COPY OF THE LETTER NO.F.NO.RW/NH-
36092/1/12-S&R(B) ISSUED BY MINISTRY OF ROAD TRANSPORT
AND HIGHWAYS, NEW DELHI DATED 14.09.2012.
- EXT.P6:** TRUE PHOTOSTAT COPY OF THE JUDGMENT OF
THIS HONOURABLE COURT IN WP(C) NO.8982 OF 2012,
DATED 06.12.2012.
- EXT.P7:** TRUE PHOTOSTAT COPY OF THE G.O(RT)NO.244/2013/PWD
DATED 15.02.2013.
- EXT.P8:** TRUE PHOTOSTAT COPY OF THE RELEVANT PART OF THE PLAN
SKETCH PREPARED BY THE SOUTHERN RAILWAY.
- EXT.P9:** TRUE PHOTOSTAT COPY OF THE RELEVANT PART OF THE PLAN
SKETCH PREPARED FOR THE ROAD AND BRIDGES
DEVELOPMENT CORPORATION OF KERALA.
- EXT.P10:** TRUE PHOTOSTAT COPY OF THE EXTRACT OF NORM.1816 OF
THE ENGINEERING CODE OF RAILWAYS.(WORKS FOR CIVIL
DEPARTMENT/MINISTRIES LEVEL CROSSING, OVER AND UNDER
BRIDGES).
- EXT.P11:** TRUE PHOTOSTAT COPY OF THE LETTER ISSUED BY ROADS AND
BRIDGES DEVELOPMENT CORPORATION OF KERALA
DATED 18.02.2015, ALONG WITH ENGLISH TRANSLATION.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE

**ASHOK BHUSHAN, CJ
& A.M.SHAFFIQUE, J.**

W.P.C.No.6421 of 2015

Dated this the 4th day of June 2015

J U D G M E N T

Shaffique, J

Petitioner has approached this Court by filing this public interest litigation seeking the following reliefs:

i. To issue a writ direction or order in the nature of Mandamus directing the 1st respondent to construct RoB at N.H.213 at Angadipuram as per "National Highway standards as well as Railway norms" after obtaining sanction from the Regional Officer of Ministry of Road Transport and Highway."

2. The issue projected by the petitioner is regarding the unscientific manner in which the bridge is being constructed at N.H.213 at Angadipuram. According to the petitioner, the width of the bridge is only 7.5 meters. It will narrow down the use of National Highway. This, according to the petitioner, is totally contrary to the norms prescribed

by the Central Government and also the undertaking given before this Court by the respondent authorities in W.P.C.No.8982/2012 which has been decided on 06/12/2012.

3. Counter affidavit has been filed by the 3rd respondent inter alia stating that Detailed Project Report was prepared for the construction of Road Over Bridge or underpass in lieu of level cross No.7 at Angadipuram. The General Arrangement Drawing for construction of two lane ROB at Angadipuram was submitted to the Chief Bridge Engineer, Southern Railway in which railways have reported that the level cross No.7 at Angadipuram will be closed on completion of Rail Over Bridge, the same was approved as per letter dated 03/04/2013. Government of Kerala sanctioned an amount of 365 lakhs for road widening of N.H.213 between Angadipuram and Perinthalmanna and road widening was completed by National Highways Wing of Kerala PWD. Further it is stated that Government of Kerala have entrusted Roads and Bridges Development Corporation

of Kerala for construction of two lane Rail Over Bridge at Level Cross No.7, at Angadipuram. It is stated that the present width of level cross at Angadipuram is 9 meres which is sufficient for lane traffic. Further it is stated that present width of N.H.213 where proposed Rail Over Bridge is under construction is varying from 12M to 19M which is not sufficient for construction of four lane Highway or Rail Over Bridge. They also referred to a memorandum of understanding executed between Government of Kerala and Railways for construction of a carriage way at a width of 7.5 metres.

4. Having regard to the aforesaid factual situation, it is borne out from the records that there was an understanding between Government of Kerala and the Railways for construction of railway bridges and the exact details and particulars of the bridge has also been specifically mentioned therein. It is also stated by the 3rd respondent that the road width is not enough for having two

lane traffic or Over Bridge of a two lane traffic having a width of more than 9 metres.

5. Under such circumstances, when the Government had taken a policy decision in consultation with the railways to construct an over bridge having sufficient width and suitable for the road, this Court will not be justified in a public interest litigation to prevent such an activity. Learned counsel appearing for the 3rd respondent submits that the construction of the bridge has substantially been completed. Under such circumstances, we do not think that this Court will be justified in interfering with the work being carried out by the competent authorities. Accordingly, this writ petition is dismissed.

(sd/-)

(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

