

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.03.2015
CORAM
The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
The Hon'ble MR.JUSTICE M.M.SUNDRESH

W.P.No.9648 of 2010
and
M.P.Nos.1 and 2 of 2010

Birla Avenue Residents Welfare Association,
Registration No.253/2004,
No.19, Birla Avenue,
Anbu Estate Extension,
Kadhivedu,
Puzhal Panchayat Union,
Thiruvallur District, Chennai-600 066.
represented by its President Jeganathan .. Petitioner

-vs-

- 1.Union of India,
rep. by its Secretary,
Ministry of Surface Transport,
Government of India,
New Delhi-110 001.
- 2.National Highways Authority of India,
rep. by its Program Director,
Project Implementation Unit,
8th Floor, Annex Building,
SPIC House, No.88, Mount Road,
Guindy, Chennai-600 032.
- 3.The State of Tamilnadu,
rep. by its Secretary,
Highways Department,
Fort St. George,
Chennai-600 009. .. Respondents

Petition under Article 226 of the Constitution of India
praying for issue of Writ of Mandamus directing the respondents 1 and
2 to realign the bridge proposed to be constructed on the
intersection of proposed Korattur lake surplus course canal and the
National Highways Bypass road connected NH-4 and NH-5 so as that the
proposed bridge does not obstruct the storm water flow through the
culvert on the Paper Mills Road (State High Way) along the natural
gradient.

For Petitioner : No Appearance

For Respondents : Mr.Su.Srinivasan
Asst. Solicitor General-I for R1 & R2

Mr.STS.Moorthy
Government Pleader for R3

* * * * *

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

The petition, styled as a public interest litigation, seeks to restrain the construction of the bridge proposed at the intersection of Korattur lake surplus course canal and the National Highways Bypass Road connecting NH-4 and NH-5, so as to not to obstruct the storm water flow through the culvert on the Papers Mills Road (State Highway) along the natural gradient.

2. No interim stay was granted, though directions were issued on 13.04.2010 to the third respondent to take immediate steps to remove the stagnated water from the Housing Colony of the petitioner before proceeding with the construction.

3. No counter-affidavit has been filed and in view of that, we are unaware of the present position.

4. The matters of construction of bridges and its alignments and such other issues, which are infrastructural projects, this Court would not have the technical expertise to deal with, nor is it viable to do so, as held by the Division Bench of this Court in W.P.No.33547 of 2013 (P.K.Naarayanan and another v. Union of India and others), decided on 30.07.2014, in which one of us is a party (S.K.K., CJ), wherein a reference has been made to the observation of the Hon'ble Supreme Court in Union of India and others v. J.D.Suryavanshi, (2011) 13 SCC 167. However, the concern of the petitioner was more with the stagnation of the water, which he pursued is a consequence of the manner in which the bridge has been constructed. It is in view thereof that interim directions were passed to ensure that there is no stagnation of water.

5. We, thus, dispose of the writ petition in terms of the interim directions already passed with the requirement that the respondents shall file a status report with photographs of the bridge and its alignment and stating on affidavit that there is absence of stagnation of water. No costs. Consequently, M.P.Nos.1 and 2 of 2010 are closed.

6. The compliance report be filed three days prior to the next date of hearing.

7. List for compliance on 24.04.2015.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

- 1.The Secretary,
Ministry of Surface Transport,
Government of India,
New Delhi-110 001.
- 2.The Program Director,
National Highways Authority of India,
Project Implementation Unit,
8th Floor, Annex Building,
SPIC House, No.88, Mount Road,
Guindy, Chennai-600 032.
- 3.The Secretary,
Highways Department,
Fort St. George,
Chennai-600 009.

+1 cc to Government Pleader, SR.14660

Copy to:
The Section Officer, WRit Section,
High Court, Madras.

lrs(co)
krd 27/3

W.P.No.9648 of 2010

WEB COPY