

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.15120 of 2015

Date of decision:30.7.2015

Shish Ram Dayma

....Petitioner

VERSUS

Union of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Sanjay Jain, Advocate for the petitioner.

HEMANT GUPTA, J.(Oral)

The challenge in the present writ petition is to a communication dated 22.07.2015 wherein respondent No.4 has terminated the agreement No.HSRDC/TOLL/19/2014 relating to Toll Plaza No.30 under Clause 10(a) of the agreement with effect from 06.08.2015.

The petitioner was a successful bidder for toll collection in respect of Plaza No.19 and 30. Earlier Toll Plaza No.19 was declared to be part of National Highway and the agreement of respondent No. 4 with the petitioner for collection of the tolls was cancelled. A writ petition was filed by the petitioner bearing CWP No.25931 of 2014 challenging the closure of Toll Plazas. The argument of the learned counsel appearing on behalf of the petitioner was that the impugned notice of termination dated 11.12.2014 could not be in respect of Toll Plaza No.30. He, therefore,

restricted his challenge to the impugned communication only qua Toll Plaza No.19. The said writ petition was decided on 23.12.2014 regarding Toll Plaza No.19 for the reason that it is part of the National Highway in view of Section 3 of the Haryana Mechanical Vehicles (Levy of Tolls) Act, 1996, the proviso contemplated that no toll shall be levied on any mechanical vehicle crossing or using any toll facility on National Highways or urban road links. The Division Bench considering the action of respondent No 4 to cancel the entire agreement, held as under:-

“5. By a notification dated 4.3.2014, one of the roads viz. TP-19 in respect of which the petitioner is entitled under the said agreement dated 28.4.2014 to collect taxes, was declared a National Highway. Under Section 2(2) of the National Highways Act, 1956 (for short, “the Act of 1956”), the Central Government may, by notification in the official gazette, declare any other highway to be a national highway and on the publication of such notification such highway shall be deemed to be specified in the Schedule to the Act. Under Section 4 of the Act of 1956, all national highways vest in the Union. The road/highway in question, therefore, is now declared to be a national highway and by virtue of the provisions of the Act of 1956 vests in respondent No.1. Thus, in any event, respondent No.4 was not entitled to permit parties to collect any toll on the same.”

The petitioner undertook to carry work of collection of Toll Plaza No.33 on payment of the entire bid amount, which was accepted.

It is not disputed that thereafter the road over which Toll Plaza No.30 is situated has also been declared National Highway. Therefore, reasoning given in the writ petition filed by the petitioner earlier would be applicable in respect of Toll Plaza No.30 which has been ordered to be closed now.

In view of the decision in the previous writ petition filed by the petitioner himself, we do not find any merit in the present writ petition.

Dismissed.

(HEMANT GUPTA)
JUDGE

JULY 30, 2015
'D. Gulati'

(LISA GILL)
JUDGE