

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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C.M. No. 54-LPA of 2015 and
LPA No. 23 of 2015

Date of Decision : February 16, 2015

Gurinder Singh and others

....APPELLANTS

Vs.

Union of India and others

....RESPONDENTS

**CORAM : HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present : Mr. Naresh Kaushal, Advocate,
for the appellants.

AUGUSTINE GEORGE MASIH, J.

C.M. No. 54-LPA of 2015

For the reasons mentioned in the application, delay of 17
days in filing the appeal stands condoned.

Application stands disposed of.

LPA No. 23 of 2015

1. This appeal is directed against the judgment dated
01.10.2014 passed by the learned Single Judge in the writ petition
preferred by the appellants dismissing the same.

2. Briefly, the facts are that the appellants owned houses
and agricultural land on both sides of the road leading from Amritsar
to Pathankot National Highway No. 15, situated in Village Sohal,

Tehsil and District Gurdaspur. The National Highway Authority of

India took a decision and proposed construction of an underpass/passenger underpass at Sohal Junction on National Highway No. 15.

3. Appellants assert that in case the underpass is constructed, the value of the land of the appellants on both sides of the road will be diminished. It is asserted that a holy Gurudwara “Guru Arjan Dev Low Langar” and the “Nishan Sahib” of the Gurudwara would come under the underpass and, therefore, sentiments and the religious feelings of the people at large would be hurt. There being no demand from the people of the locality or from the nearby villages, such proposal should not be given effect to.

4. The appellants sought information under the Right to Information Act as to how this proposal for underpass at the Sohal Junction of National Highway No. 15 was taken up for consideration, to which it was conveyed that a local M.P. of the area had put forth a proposal for construction of underpass at Sohal Junction on the National Highway. It was also intimated that as per IRC SP:84-2009, underpass can be provided where a school, hospital or factory/industrial area was within a distance of 200 meters from the proposed site, whereas in the proposed underpass, there was no such institution in existence. Apart from this, it was not an accident prone area nor was there such a traffic flow as per the requirement of para 1.13.2 of IRC:SP:84, which are the guidelines with regard to providing an underpass way. Averment has also been made that these conditions are not fulfilled at the proposed site.

5. It has been asserted on the basis of the Site Plan (Annexure P-8) that the Member of Parliament had, in his request letter dated 11.02.2013 (Annexure P-5), sought the underpass on the road leading from Shri Har Gobindpur to Dera Baba Nanak shown at point B, which is about 9 K.M. away from point A, the proposed underpass. The appellants have heavily relied upon the site plan to contend that the underpass at the proposed Sohal Junction is without any justification or requirement.

6. Exhaustive demand notice dated 09.09.2013 (Annexure P-9) was submitted by the appellants through a counsel calling upon the respondents to stop the proposal under consideration for underpass. When no response was received, the appellants approached this Court by filing CWP No. 1654 of 2014, which was disposed of by this Court vide order dated 29.01.2014 (Annexure P-10) directing The General Manager/Project Director, Project Implementation Unit (PIU) Jalandhar-respondent No. 3 to consider and pass a speaking order on the representation/notice dated 09.09.2013 within a period of two months.

7. In compliance with the order passed by this Court, a detailed order dated 28.03.2014 (Annexure P-11) has been passed by respondent No. 3, wherein the grievances, as highlighted by the appellants in their representation/legal notice, have been dealt with while rejecting the same. Through the writ petition, the appellants unsuccessfully challenged the said order as their writ petition was dismissed by the learned Single Judge vide order dated 01.10.2014 holding therein that the impugned order is fully justified and the

petition is devoid of merits.

8. It is the contention of the counsel for the appellants that the learned Single Judge has not taken into consideration the grounds, which were asserted by the appellants at the time of hearing in the right perspective and has not appreciated the pleadings and the documentary evidence brought on record by them. He has reiterated the facts and the grounds, which have been referred to in the earlier part of this order where the facts and the grounds taken by the appellants in their writ petition have been referred to. The main emphasis of the counsel for the appellants is on the Site Plan (Annexure P-8) to assert that the site, at which the underpass is being proposed for construction at Sohal Junction, was not the one, which was requested for by the local Member of Parliament vide his letter dated 11.02.2013 (Annexure P-5). The other pleas have also been pressed into service such as non-fulfillment of the guidelines, as laid down by the Indian Road Congress (IRC) and the likelihood of diminishing of the value of the land of the appellants because of the construction of the underpass apart from the hurting of the sentiments/religious feelings of the public at large because of Gurudwara Sahib and Nishan Sahib coming under the underpass.

9. We have considered the submissions made by the counsel for the appellants and have gone through the records of the case.

10. All the pleas, which have been raised by the appellants, were duly considered by respondent No. 3 in his impugned order

dated 28.03.2014 (Annexure P-11). A perusal of the same would lead no manner of doubt that all the grounds, which have been pressed into service for shelving the construction of the underpass, are without any basis.

11. It has been pointed out in the order that the National Highway Authority is developing a stretch of National Highway No. 15 from Pathankot to Amritsar as four laned divided carriageway on Build Operate and Transfer Basis. The scope of work has been finalized after getting detailed study from the Expert Consultants, where bypasses to Dinangar Town, Dhariwal Town, Gurdaspur City, Batala Town and Kathunangal Town is included. In addition, the provision of Vehicular Underpass, Flyovers on major junction are also included. The purpose is that the main carriage pass through uninterrupted and the local traffic segregated which would in effect make the overall traffic movements safe. While executing the project at the site, it was noticed that certain accident prone locations had to be taken care of by incorporation of additional safety measures like the Public Underpass, Vehicular Underpass, Junction improvement etc. One of such locations, which was identified, was Sohal Junction. The proposal indeed with regard to the underpass was put forth by the Member of Parliament (Lok Sabha) but the same was sent to the Team Leader of the Experts, who were the consultants. The matter was examined at length by the Experts and the appropriate site proposed, as per the requirements for approval of the National Highway Authorities, which on consideration was granted in principle.

Not only the Public Underpass is to be constructed, there is a

provision of service road on either side of Public Underpass for facilitating the movement of local traffic of Sohal Town.

12. The assertion of the appellants with regard to the possibility of diminishing the value of the land has also been dealt with by stating that it appears to be misplaced and is purely a private interest which is based upon hypothetical presumptions and assumptions. However, with the construction of the Public Underpass along with service road on either side, not only the appellants will be benefitted but it would facilitate the public at large who will have unhindered safe cross movement of the National Highway. It has been clarified that the Gurdwara Guru Arjan Dev Low Langar and the Nishan Sahib shall not come under the Public Underpass and this underpass would facilitate the movement of the pilgrims/Gurdwara Sangat across the National Highway.

13. The Site Plan (Annexure P-8), on which heavy reliance has been placed by the counsel for the appellants, has been found to be not showing the correct details and is not according to the factual position at the site. Various discrepancies found therein have been highlighted in the impugned order which have been separately dealt with under Clause (vi) sub-clause (a) to (f). On repeated questions put by us as to where is the correct site plan, which was enclosed along with the impugned order, to which the counsel has no answer. In the absence of the correct site plan, the assertions made by the counsel for the appellants cannot be accepted especially when the site plan, which has been placed on record as Annexure P-8, does not depict the correct position.

14. It may, however, be pointed out that the population of the Sohal Town is more than 10, 000 persons and the Public Underpass, which is being proposed, would lead to six villages, names of which have been mentioned in the impugned order. As regards the location of underpass, it has been pointed out that the location as Point A was projected to be what was requested for by the Member of Parliament whereas the appellants wanted it at Point B. It has been stated that the existing Gurdaspur City shall be bypassed and there is already a provision of a Grade Separator at the intersecting point where the initial proposal was submitted by the Member of Parliament i.e. at Km 40.838 with Major District Road from Shri Hargobindpur to Dera Baba Nanak. The underpass at Point A i.e. Sohal Town is in addition to the Grade Separator at the intersection.

15. With regard to violating the Indian Road Congress guidelines, it has been stated that these are primarily for making the project highways safe for both the pedestrians and vehicular traffic. These parameters are not restrictive and do not deny the site specific solutions aimed at achieving road safety. It has been pointed out that there is a Senior Secondary School, a Public Health Centre, Cooperative Agriculture Society, Post Office, Railway Station on left hand side of National Highway at Sohal Town and Gurudwara, petrol pump, Indian Gas Agency on right hand side of the National Highway in the town. Apart from there being a number of shops on either side of the National Highway where frequent movement of the local public of the Sohal Town from one side of the National Highway to the other side, both during the day and night, takes place. The basic objective,

as laid down by the Indian Road Congress, to ensure the safety of the road users and pedestrians, has thus been fulfilled.

16. In view of the well reasoned and speaking order dated 28.03.2014 (Annexure P-14), which has been discussed above, with which we are in agreement, we do not find any merit in the present appeal and, therefore, dismiss the same.

**(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE**

**(AUGUSTINE GEORGE MASIH)
JUDGE**

February 16, 2015
pj