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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 7693/2013**

**MOHAN COOPERATIVE INDUSTRIAL
ESTATE LIMITED (REGD.)**

..... Petitioner

Through: Mr. P.S. Bindra, Adv.

Versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Manish Mohan, Ms. Manisha
Saroha and Mr. Shivam Chanana,
Advs. for R-1/UOI.

Mr. Devesh Singh and Mr. Vinod
Kumar Bhati, Advs. for R-
2&6/GNCTD & DP with ASI Suresh,
Sarita Vihar & SI Ramtirath, Paivi
Officer, Traffic.

Mr. Dhanesh Relan & Ms. Akshita
Manocha, Advs. for R-3/DDA.

Ms. Mini Pushkarna and Ms.
Yooghica Pallavi, Advs. for R-
4/SDMC.

Mr. Chandra Prakash and Mr. Puneet
Garg, Advs. for R-5/DMRC with Mr.
Sanjay Kumar, Legal Manager,
DMRC.

Ms. Niyati Kohli, Adv. for R-7/BFTL
Mr. Mukesh Kumar, Adv. for R-
8/NHAI.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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25.02.2016

1. The petitioner Mohan Cooperative Industrial Estate Limited

with persons having industries on industrial plots in Mohan Co-operative Industrial Estate as its members, has filed this petition impleading Union of India (UOI), Government of NCT of Delhi (GNCTD), Delhi Development Authority (DDA), South Delhi Municipal Corporation (SDMC), Delhi Metro Rail Corporation (DMRC), Delhi Police (DP), Badarpur-Faridabad Tollways Ltd. (BFTL) and National Highways Authority of India (NHAI) as respondents and seeking, (i) mandamus for restoring the width of service road B-II parallel to the Mathura Road to that earlier existing of 60 feet and which has been reduced to 18 feet; (ii) mandamus to provide a proper 'U' turn to enable heavy vehicular traffic, such as trucks and trailers coming on Mathura Road from the direction of rest of the city of Delhi to easily access the said service road; and, (iii) to prohibit the respondents from restricting the use of 'U' turn at Point No.2 in the site plan filed as Annexure P-1 at page 44 of paper book for buses only etc.

2. The petition was entertained and pleadings have been completed. The counsels have been heard.

3. The counsel for the petitioner has raised two grievances. Firstly, it is contended that the width of the service road aforesaid has been reduced from

that in the sanctioned layout plan of 60 feet to 18 feet only, without following the due process of law; and, secondly, it is contended that the heavy vehicular traffic to the Industrial Estate coming from rest of the city of Delhi is unable to easily access the Industrial Estate through the access provided from Point No.1 in the aforesaid site plan.

4. The land on which the said Industrial Estate has been developed was leased out to the petitioner and the petitioner has thereafter developed the same by carving out plots thereon and allotting the same to its members / shareholders. From a perusal of the sanctioned layout plan it appears that the subject service road is part of the land leased to the Industrial Estate.

5. The counsel for the petitioner states that the land of the said service road has been taken for widening / re-development of Mathura Road, without any notification for acquisition. It is further contended that even under the Master Plan, the width of the service road is required to be more than 60 feet.

6. Neither the counsel for the petitioner nor the counsel for the respondent No.4 SDMC are able to answer, whether the original sanctioned layout plan has been amended or not to reduce the width of the service road from 60 feet to 18 feet.

7. *Prima facie*, it appears that if the land of the road was part of the land which was leased / allotted to the petitioner, the same could not have been taken away except by acquiring the same and which does not appear to have been done.

8. However the counsel for the respondent No.8 NHAI states that the work of widening / re-development of Mathura Road was commenced in or about the year 2008 and completed in 2010; that the size of the service road was reduced from 60 feet to 18 feet and the land thereof taken for widening / redevelopment of Mathura Road in the year 2010 and this petition is filed in the year 2013. It is contended that no protest was lodged at the time when the land was taken.

9. I am of the opinion that at this stage, considering the fact that the interest of the members of the petitioner who are stated to be about 100 in number, cannot supersede the larger public interest which has indeed benefited from widening / redevelopment of Mathura Road and construction of an elevated corridor thereon. The remedy, if any of the petitioner is to claim compensation for the land acquired.

10. As far as the second contention of the counsel for the petitioner, of the large trucks / trailers coming from the direction of rest of the city of Delhi facing inconvenience in entering the Industrial Estate through the service road aforesaid is concerned, the counsel appearing for the respondents No.2&6 GNCTD and DP confirms that there is indeed a problem and the same also results in traffic jams, owing to the time taken by large vehicles in turning from the Point No.1 supra. He also confirms that there is no other entry into the Industrial Estate for the vehicles coming from Delhi, except by crossing the border of Delhi into Haryana at Badarpur and to thereafter take the 'U' turn and access the service road while returning to Delhi.

11. The counsel for the petitioner states that though the vehicles of members of petitioner are willing to take 'U' turn after entering Haryana but have to pay toll tax and other levies and face other harassment in doing so and the same is thus not viable. He has suggested that the heavy trucks / trailers be permitted to take 'U' turn from Point No.2 shown in site plan Annexure P-1 aforesaid and entry whereto presently is restricted for buses. Alternatively he has suggested that an expert body like Central Road Research Institute (CRRI) be directed to look into the matter or an

arrangement be worked out for allowing the vehicles to cross into Haryana for taking the 'U' turn for Delhi, without paying toll tax and other levies.

12. The counsel for the respondent No.7 BFTL which has carried out the work of widening / redevelopment of Mathura Road states that the same was carried out under a contract with the respondent No.8 NHAI and as per the plans / drawings submitted by the respondent No.8 NHAI.

13. The counsel for the respondent No.8 NHAI tentatively states that the plans / drawings were supplied by the respondent No.1 UOI.

14. The counsel for the respondent No.1 UOI controverts and states that the designing has been done by the respondent No.8 NHAI only.

15. This Court, in exercise of powers under Article 226 of the Constitution of India, cannot go into the technical issues of designing and development of highways and cannot direct alteration thereof. The only relief which can be given is for the writ petition to be treated as a representation and direct the respondents to consider the same and if any feasible solution can be found, implement the same.

16. The counsel for the petitioner states that the petitioner would be willing to share the costs of any addition / alteration required to be made.

17. Accordingly, the petition qua this relief is disposed of with the following directions:

(I) NHAI is appointed as the Nodal Agency for convening meeting(s) and to coordinate with all the other parties / concerned parties for consideration of the grievance / representation contained in writ petition.

(II) The Chief General Manager of the subject Project Implementation Unit of NHAI is directed to, within one month, convene the first meeting of the representatives of UOI, GNCTD, DDA, SDMC, DMRC, DP and BFTL for an initial meeting.

(III) The Deputy Excise & Taxation Commissioner, Faridabad, Haryana be also invited to consider, whether an arrangement can be worked out for allowing the specified vehicles desirous of crossing the Toll Plaza only for the purpose of returning to the Industrial Estate, without payment of any toll tax.

(IV) All the other respondents are directed to, within the said one month, nominate officer(s) for participation in the said meeting(s) and to ensure that the said nominated officer(s) attend the meeting(s) and participate in the decision making process.

(V) The petitioner be also notified of the meeting(s) and the representative of the petitioner would be entitled to participate therein;

(VI) In the initial meeting(s), a decision be also taken of the need, if any to engage the services of any other expert body like CRRI.

(VII) A reasoned decision be taken with respect to the representation / grievance of the petitioner contained in this writ petition, within eight months from today and unless no merit is found in the grievance / representation of the petitioner, remedial measures, depending upon the nature of the additions / alterations / changes required to be made, be implemented within a reasonable time.

(VIII) A decision be also taken on the costs of the additions / alterations / changes and the petitioner be informed of its share in the

same.

No costs.

Copy of this order be given *dasti*.

RAJIV SAHAI ENDLAW, J.

FEBRUARY 25, 2016

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