

205

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

CWP-5922-2012

Date of decision : 18.04.2017

Rakha Ram and others

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: None for the petitioners.

Mr. Rajbir Singh, AAG, Haryana.

AMIT RAWAL, J. (ORAL)

The grievance of the petitioners in the present writ petition is to the order dated 08.12.2009 (substituted date 09.04.2008) (Annexure P-8), passed by respondent No.1, vide which the construction of Out of Norm Bridge at RD 166780 on BML Hansi Butana Branch Multipurpose Link Channel for Village Geong to field path, had been cancelled.

The case set up by the petitioners is that due to construction of BML Hansi Butana Branch Multipurpose Link Channel, the land of the petitioners is divided into two pieces and it would become very difficult for the petitioners to cultivate the fields across the Channel. Similar hardships were faced by the residents of Village Jaswanti District Kaithal. In this regard, a letter was written to respondent No.1 and a copy to respondent No.2 for construction of out of norm Bridges at RD 137500 and RD 166780 on BML Hansi Branch Butana Branch Multipurpose Link Channel for

village Jaswanti to field path and Village Geonge to field path, accorded by the Governor of Haryana and an amount of ₹ 100 Lacs was granted for the construction of the aforementioned two bridges, which fact is evident from Annexures P-1 and P-2. The respondent(s)/authorities constructed the bridge at Village Jaswanti to fields path and some amount about ₹ 68.66 Lacs had been spent against the sanction amount of ₹ 100 Lacs and only ₹ 31.00 Lacs balance amount was available, therefore, respondent No.3 wrote a letter dated 19.05.2008 (Annexure P-3) to respondent No.2 to allot the funds of ₹ 65.00 Lacs for construction of bridge at RD 166780 for village Geong to field path. Copy of the letter was also forwarded to respondent No.4 for information. The rough cost estimate of the aforementioned out of norm concerned RD came out about ₹ 150 Lacs. Since no action was taken, the petitioners also met with the Health Minister, Haryana, who had visited the site himself and requested the Irrigation Minister for grant of necessary sanction, but the authorities did not pay any heed, therefore, the action of the authorities of not constructing the Bridge at RD concerned has resulted into prejudice and inconveniences/hardships.

Mr. Rajbir Singh, AAG has drawn the attention of this Court to the affidavit of respondent No.2/Sh. Harmail Singh (Engineer-in-Chief Irrigation & Water Resources Department, Panchkula) to contend that the Government had never granted the sanction for construction the Bridge at RD 166780, in fact, there was a proposal for constructing out of norm bridges at RD 137500 & RD 166780, but the authorities only granted the sanction for RD 137500. However, due to clerical oversight/mistake, it was mentioned that the approval had been granted for both the bridges at RD

137500 & 166780, but the same was clarified by the Government vide letter dated 09.04.2008 (Annexure P-2). Even the present Superintendent Engineer, Sarasvati Heritage Circle, Kurushetra has also filed an affidavit, in pursuance to the order dated 30.03.2017 to submit that for the purpose of construction of bridge over any Canal, the technical and financial aspects had to be looked into, particularly as per the policy dated 25.01.2007. The Government vide letter dated 09.04.2008, clarified that the Bridge at RD 166780 may not be constructed and another revised administrative approval to construct the bridge at RD 166780 was submitted vide letter dated 02.05.2010, but the said proposal was turned down on 27.09.2010. It is, in this aspect of the matter, the impugned order dated 08.12.2009 (Annexure P-8) had been passed and therefore, the grievance of the petitioner cannot be addressed as per their norms and choice.

I have heard the learned counsel for the State and appraised the paper book and of the view that there is no merit and force in the matter, for, for the purpose of granting and sanctioning the approval for constructing the bridge, the Government has to examine technical, financial and other aspects. The fund available at the State exchequer is also one of the factors. In fact, as per the stand of the Government, the demanded bridge, in question, at RD 166780 was found to be serving as a field path and not only the few cultivators, for, alternative consolidation path is also available to the petitioners. Even the authorities have also thought it appropriate not to incur huge expenditure from the public exchequer. In my view, the Government is the best possible authority to take the decision with respect to the development. The Court cannot substitute on opinion, until and unless, lifting of the veil finds that impugned action is subject to the

judicial review, which is not the case in hand.

Keeping in view the aforementioned facts, I do not find any illegality and perversity in the impugned order, much less, no ground is made out for interference and accordingly, the present writ petition is ordered to be dismissed.

18.04.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No