

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CWP 6517 of 2017

Date of Decision: March 30, 2017

Baij Nath and anotherPetitioners
Vs.
State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr.Amrik Singh, Advocate for the petitioners.

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M.M.S. BEDI, J. (ORAL)

Petitioners have been issued a notice annexure P-6 purporting to be a notice under Section 26 (2) of the Control of National Highways (Land and Traffic) Act, 2002, for short 'the Act'. Petitioners have filed a reply annexure P-7 to the said notice mentioning therein that they are owners of the land and have not encroached upon any land belonging to any Highway Authority. Besides this, they have highlighted that they had applied for demarcation which has not yet been conducted. The petitioners have, before the adjudication of the notice by the competent authority under the Act, approached this Court.

The dispute is amenable to the jurisdiction of Tribunal constituted as per Section 14 of the Act competent to entertain the appeal from the orders passed under Section 26 (6) of the Act.

Since the matter is pending before the officials of the Highway Administration and no order till date has been passed, the petition is premature as the petitioners have opted to approach this Court at the stage when show cause notice has been served upon them as per Section 26 (2) of the Act.

The petition is disposed of as not maintainable and being premature at this stage. However, it is observed that the authority exercising the powers under Section 26 of the Act is a quasi judicial authority required to proceed by following the procedure of law under CPC and is deemed to be a civil Court for certain purposes as mentioned in Section 26 (9) of the Act. The rules of natural justice are required to be followed. A duty is also cast upon the Highway Administration or the Officers authorized by the Administration to give a fair opportunity to consider the case taken by a person in reply to the notice under Section 26 (2) of the Act and to objectively consider the same and pass a speaking order and to ensure that the right of an affected person to approach the Tribunal constituted under the Act is not violated and any person committing any wrong under the Act is not dispossessed except by due process of law by following the statutory provisions.

March 30, 2017
sanjay

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether reportable:	Yes/No.