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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (PIL) No. 128 of 2017**

Rakesh Choubey S/o Late Shri G.P.Choubey, Aged About 49 Years R/o 34-B,
Recreation Marg, Choubey Colony, Raipur, District Raipur, Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh Through The Special Secretary, Department Of Urban Administration And Development, Mahanadi Bhavan, Naya Raipur, Chhattisgarh.
2. Director, Directorate, Urban Administration And Development, 4th Floor, Indravati Bhawan, Naya Raipur, Chhattisgarh.
3. National Highway Authority of India, Through Its Chairman, G 5 And 6, Sector 10, Dwarka, New Delhi 110075.
4. Public Works Department, Through Its Secretary, Mahanadi Bhawan, Naya Raipur, Chhattisgarh.
5. The District Collector, Bilaspur, District Bilaspur, Chhattisgarh.
6. The Commissioner, Municipal Corporation Bilaspur, Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner	: Shri Amrito Das, Advocate.
For Respondent/State	: Shri J.K.Gilda, Advocate General with Shri R.K.Gupta, Deputy Advocate General.
For Respondent/Corporation	: Shri A.S.Kachhwaha, Advocate.
For Respondent/NHAI	: Shri Navin Shukla, Advocate on behalf of Smt. Fouzia Mirza, Advocate.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Sharad Kumar Gupta, J.

Judgment on Board**Per Thottathil B. Radhakrishnan, Chief Justice****22/02/2018**

1. Heard the learned counsel for the Petitioner, learned Advocate General,
learned counsel for the Municipal Corporation, Bilaspur and the learned

counsel for National Highway Authority of India. Shri S.K.Jain, Chief Engineer (on contract), Department of Urban Administration and Development, who is involved in the governmental activity in relation to the Trifra Railway Over Bridge, Bilaspur; hereinafter referred to as 'ROB', is also present.

2. The issue arising for decision is as to whether this Court, through this Public Interest Litigation is to direct the State Government to hand over the planning, supervision and construction of the ROB to an expert Organization/Institution/Department on the premise that it is not likely to be effectuated with people of expertise, experience and requisite specialization in construction of heavy bridges on National Highways.
3. One premise of the writ petition is that the ROB is to become part of a National Highway. This plea of the Petitioner is apparently based on his statement that the ROB is to come over a four-lane National Highway. That does not hold good as the ROB is not on a National Highway even according to the NHAI and the State. He also pleads that effective compliance of the norms and standards pertaining to the width of the road prescribed by the Central Public Works Department, Indian Road Congress and National Highway Authority of India; for short 'NHA', are required for construction of such an ROB. The Petitioner projects the case that future sustainability and traffic load factors have not been taken into effective and due consideration while determining the viability of the ROB. The Petitioner has also the case that the huge investment that is going to be made for constructing of the ROB is not economically feasible and would be a sheer waste of wealth.
4. The proposed ROB from Delhi Public School point to Rajiv Gandhi Chowk would, apparently, run beside and to some extent, over another existing

ROB which stands in between the Chhattisgarh State Power Transmission Company Limited; for short 'CSPTCL' office and Maharana Pratap Chowk. Different drawings in relation to the proposed structure and different materials in relation to the project have been placed on record by the official Respondents. The State and the Bilaspur Municipal Corporation would say that the requirement is to have an ROB for smoothening the transit of vehicles from Delhi Public School point to Rajiv Gandhi Chowk thereby creating, essentially, a way for movement of vehicles which may have to traverse longer distance on way to other sectors, to reach to the National Highway and escape from the crowded Maharana Pratap Chowk and other areas of Bilaspur. As a requisite corollary, the traffic load between the Maharana Pratap Chowk and CSPTCL office will also get eased by the movement of vehicles which could go straightway from the Delhi Public School point to Rajiv Gandhi Chowk. On the basis of the drawings, we thought it appropriate to accede to the request of the State to view a digital presentation relating to the entire structuring and design of the road. We therefore viewed the presentation with technical support. That showed to our satisfaction that the proposed ROB is not merely one that would run as a substitute to the existing ROB between the CSPTCL and Mahrana Pratap Chowk. The width of the proposed ROB is such that it takes much more number of vehicles than that would ply through the existing ROB. When vehicles which do not have to touch the Maharana Pratap Chowk moves off directly to Rajiv Gandhi Chowk, it can safely be inferred, even from a common man's view point, that easing of traffic would necessarily result.

5. On to the plea of the Petitioner that the original proposals have been given a go-bye, exempting certain areas and reducing the width of the proposed ROB, we need to note that the definite stand of the

Respondents is that the proposed structure has been designed in such a way that it will reduce the requirement of land acquisition, which is an exercise that will definitely eat into the funds of the State. Without land acquisition and with minimal invasive approach to the peripheral structures, the proposed ROB is designed to stand and operate. This will also exclude any requirement of shifting the Electricity Sub Station, for which the CSPTCL has also taken a firm stand that shifting would be wholly impossible, it is submitted.

6. Taking all these factors into consideration, one issue that is left for us to look into is as to whether construction of three-lane bridge with permission to have two-way traffic is possible within the norms that would apply. We have been shown IRC-5-2015 whereby two or more lanes can be put for an ROB. Therefore, the structure and its construction cannot be treated as contrary to any particular positive norm which could be treated as mandatory in nature. We would sound to ourselves the words of wisdom in the law laid by the Apex Court in **Union of India v. Dr. Kushala Shetty** {AIR 2011 SC 3210} that Courts are not at all equipped to decide upon the viability and feasibility of a particular project and as to whether a particular alignment would subserve the larger public interest. The scope of judicial review, in such matters is very limited. The materials on record and the plea of both sides do not generate any ground for us to hold that the proposal is *ex-facie* contrary to the mandate of law or is palpably perverse in its reasoning relating to the need to have such structure or about the feasibility of the project that is conceived. Hence, we do not find any ground to intervene.
7. Before parting, we may also notice that the proposed ROB, as designed, does not have a separate track for pedestal movement. That is something

which we had noticed even while seeing the digital presentation. The long distance from the Delhi Public School point to Rajiv Gandhi Chowk is obviously not meant to be utilized by pedestrians when alternate means are available to the pedestrians including through the existing ROB to move from the Delhi Public School area to the CSPTCL office, Maharana Pratap Chowk and then to Rajiv Gandhi Chowk. The proposal of the ROB cannot be treated as abridgment of the right to free movement.

8. On the whole, we are satisfied that the proposed ROB and the impugned proposal to have it in place cannot be held as arbitrary, warranting interference by this Court. This writ petition accordingly fails.
9. In the result, this writ petition is dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-

(Sharad Kumar Gupta)
JUDGE