

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**PUBLIC INTEREST LITIGATION NO. 100 OF 2013
WITH
CA/1617/2014 AND CA/3346/2015 IN PIL/100/2013**

Omprakash Motilal Varma

..PETITIONER

VERSUS

Union of India and Others

..RESPONDENTS

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Ms. P.S. Talekar, Advocate for petitioner and for intervenor in CA/1617/14 and for applicant in CA/3346/15.

Mr. M.N. Navandar, Advocate for respondents.

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**CORAM : S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.**

DATED : 22nd OCTOBER, 2018

ORDER :

Under this Public Interest Litigation, the petitioner assails the decision of the respondents of finalization of survey work reconnaissance engineering cum traffic of Solapur – Jalgaon (450 kms.) new line submitted to the Central Railway Board on 30th June, 2012. The petitioner seeks further directions to conduct techno-economic survey of Solapur – Jalgaon new railway line as proposed earlier going through Aurangabad.

2. Ms. Talekar, the learned Counsel for the petitioner submits that new railway lines were announced for the Marathwada region in the railway budget 2008-09, more particularly Solapur – Jalgaon railway line. The said line was proposed for 453.767 kms. thereby passing through Aurangabad. Though the said railway line was declared, no survey was carried out as is required under Clause 201 and 203 of the guidelines of the Code of Engineering, Department of Railways. The learned Counsel submits that Aurangabad city is a tourist place having heritage monuments. Several tourist places find place around Aurangabad such as Paithan, which has the second largest irrigation dam in India, Samadhi of Saint Eknath, birth place of Saint Dnyaneshwar (i.e. Apegaon), Saint Vidyapeeth and one of the best gardens in India known as Dnyaneshwar Udyan, silk sarees known as Paithani. Aurangabad is known for Bibi ka Makbara, Panchakki, Malik Ambar Nahar, Bombay High Court Bench, Daulatabad Fort, Ellora Caves including world famous Kailas Temple, Bhadramaruti temple at Khultabad, tomb of Aurangzeb and so on. Marathwada Statutory Development Board also passed resolution requesting to conduct survey of Solapur – Jalgaon new railway line as proposed. Archaeological Survey of India gave information that nearly half of the amount is generated from foreign tourists by railways. The respondents cannot deny the importance of Aurangabad place from

tourists as well as revenue point of view. Waluj M.I.D.C. Industrial Area and the new five star Shendra Industrial Area finds place in Aurangabad city. Therefore, it is necessary to direct the respondents to conduct techno-economic survey of Solapur – Jalgaon new railway line as proposed earlier going through Aurangabad. The respondents have decided to finalize the survey work reconnaissance engineering cum traffic of Solapur – Tuljapur – Osmanabad – Beed – Jalna – Ajanta - Jalgaon (400 kms.) new line, thereby deviating from the earlier route which would pass through Aurangabad. Said action of the respondents is arbitrary and causing injustice to the citizens of Aurangabad. The respondents have not adhered to their own Code for Engineering Department issued by Government of India, Ministry of Railways. The respondents cannot act as per their whims and fancies.

3. Mr. Navandar, the learned Counsel for the respondents submits that survey of 450.767 kms. new railway line of Solapur – Jalgaon was made. The other route through Jalna is 50 kms. shorter. There was another demand for survey of the route. The survey report is submitted to the Railway Board. The Railway Board, till date, has not sanctioned or permitted the route and the respondents have shelved the project of Solapur – Jalgaon route, as the same was non-viable.

4. We have considered the submissions. The jurisdiction of this Court in the policy decision of the respondents would be in a very limited compass. It would be for the Department of Railways to select a particular route, assess its viability and take decision accordingly. In the matters, involving fiscal ramifications, this Court would be slow in exercising its jurisdiction.

5. The respondents have placed before us the survey report of the railway route. The survey was for a distance of 453.767 kms. Railway route of 453.767 kms. has been given in the said survey report. The survey was made by the respondents. Same was also submitted. However, it was not found to be viable and as such, the project is shelved. Now the respondents are not undertaking the project either for 453.767 kms. route or 400 kms. route. As submitted in survey report that the project is not viable, it would not be appropriate for this Court to issue directions to the Ministry of Railways in that regard. In the light of the above, Public Interest Litigation stands disposed of. In view of disposal of Public Interest Litigation, all civil applications stand disposed of.

(R.G. AVACHAT, J.)

(S.V. GANGAPURWALA, J.)

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