

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
CWP No.5815 of 2018 **1**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.5815 of 2018
DATE OF DECISION:02.04.2018

Dev Raj Ahuja and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. R.S. Randhawa, Advocate
for the petitioners.

ANUPINDER SINGH GREWAL, J.

1. In the instant public interest litigation, the petitioners have sought a direction to the respondents to take immediate steps in respect of representations dated 29.11.2017 (Annexure P-2) and 01.01.2018 (Annexure P-3) with regard to Level Crossing No.141-C, near Village Majri from Sadhugarh to Badali Ala Singh Road where instead of Railway Over Bridge (for short 'ROB'), a Railway Under Bridge (for short 'RUB') is being constructed.

2. It is the case of the petitioners that despite the representations sent by Gram Panchayats of more than 11 villages, the respondents are constructing RUB instead of ROB.

3. Learned counsel for the petitioners has contended that the RUB which is being constructed will be detrimental to the interests of the villagers. It would be difficult for the agricultural implements to be carried as the bridge is narrow and also due to the area being low lying it is likely to cause flooding and stagnation of water during rainy season.

photographs of the RUB which have been annexed as Annexure P-9. He also contends that the Chief Engineer (NH) had earlier recommended the construction of a ROB but the Railway Authorities have instead started the construction of a RUB.

5. We have heard the learned counsel for the petitioners.

6. It is evident from a bare look at the photographs (Annexure P-9) that the RUB has been constructed and is operational. The photographs are stated to have been taken on 01.01.2018 and only the road needs to be metalled. The construction of the RUB must have commenced several years ago and at this stage when the project is nearing completion, it would be difficult for this Court to direct the Railway Authorities to construct ROB in its place.

7. The averment of the learned counsel for the petitioners that it is a low lying area and would result in stagnation of water and flooding, has not been substantiated as there is no material on record in this regard. The photographs where the water is shown to have collected do not reveal that the RUB is in its vicinity. The RUB is not visible from these photographs. Even otherwise if there is any stagnation of water or flooding, the respondents would be duty bound to take steps to facilitate the smooth flow of traffic on the RUB.

8. Furthermore, as to whether the RUB or the ROB is to be constructed, would be a matter which would lie within the domain of experts and this Court would not be in a position to issue any directions in this regard. Merely because an engineer at one point of time has recommended for construction of ROB it would not by itself be sufficient to arrive at the conclusion that the ROB would be more suitable than the RUB.

The Railway Authorities have taken a decision after due consideration which would not call for any interference especially when the bridge is almost complete.

9. Consequently, we do not find any justification in issuing any directions in this regard. The petition stands dismissed. We, however, hasten to add that this order will not preclude the petitioners to approach the authorities with regard to the redressal of their grievances.

(AJAY KUMAR MITTAL)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

April 02, 2018
jt

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