

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

**CWP-18209-2019 (O&M)  
Date of Decision:03.10.2019**

Gram Panchayat, Jalweri Gehlan & others

... Petitioners

Versus

State of Punjab & others

... Respondents

**CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.**

Present:- Mr. Ferry Sofat, Advocate for the petitioners.

....

**TEJINDER SINGH DHINDSA, J. (ORAL)**

Petitioners are aggrieved of the construction of a Railway Under Bridge (RUB) at Level Crossing No.141-C near Village Majri from Sadhugarh to Badali Ala Singh on the Ambala-Ludhiana Section.

Counsel would submit that the recommendations of the Chief Engineer (NH) in the communication dated 31.08.2013 (Annexure P-4) was for construction of a Railway Over Bridge (ROB) but without any justifiable basis the construction of Railway Under Bridge (RUB) has been approved. Heavy reliance is placed upon Memo dated 19.09.2017 (Annexure P-12) issued by the Advisor (Technical) to Chief Minister, State of Punjab to urge that the Railway Under Bridges create a problem of water stagnation and as such even on the site in question, a Railway Over Bridge ought to be constructed. That apart, counsel has submitted that a Railway Under Bridge at the site would result in flooding and water logging in the adjoining areas and which would give rise to various issues including cutting off the access of the petitioners from the other areas. Further urged that repeated

representations at Annexures P-2, P-3, P-11 (colly) and P-13 have been submitted but the respondent/authorities have not dealt with the issue. Directions have also been sought from this Court to restrain the respondents from carrying out the construction of the Railway Under Bridge during pendency of the instant writ petition.

Counsel has been heard at length and the pleadings on record have been perused.

Perusal of the Memo dated 19.09.2017 (Annexure P-12) issued by the Advisor (Technical) to Chief Minister, Punjab and addressed to Engineer-in-Chief, Local Bodies, Engineer in Chief-PUDA, Chief Engineer-North, South, PMB, Chief Engineer-HQ, PWD (B&R) and Chief Engineer-Improvement Trust, Punjab would reveal that the same had been issued on the subject of 'Problem of Water Stagnation under RUB's/Underpasses'. Such communication sounds a caution with regard to certain steps to be taken to ensure the drainage of water from surrounding catchment areas where a Railway Under Bridge/Underpass is to be constructed. It has been observed by the Advisor (Technical) that invariably only a 'sump and pump arrangement' is resorted to which is not sufficient. A number of innovative methodologies have been resorted to by Engineers who have tackled the problem of water stagnation under Railway Under Bridges and it is stated that a large number of case studies are available on different websites. Accordingly, for new Railway Under Bridges, the following guidelines were issued by the Advisor (Technical):

**“(a) For Now RUB's:**

- (i) As and when RUB is to come up, the concerned officer responsible for the RUB/Underpass should include in the*

*Scope of the work of the Consultant, of listing at minimum three pragmatic solutions and tackle the problem of water stagnation under the RUB/Underpass.*

*(ii) The Report of the Consultant should only be accepted in case the methodology recommended is workable.*

*(iii) The senior most Engineering Officers should personally study the DPR and only accept the same, in case it is observed to be pragmatic and workable solution of drainage of water from RUB's/LHUs.”*

This Court cannot construe Memo dated 29.11.2017 (Annexure P-2) issued by the Advisor (Technical) as a broad guideline not to construct a Railway Under Bridge/Underpass. Such Memo is only to address the problem of water stagnation/logging which may occur at a Railway Under Bridge. The case advanced on behalf of the petitioners to stall construction of the Railway Under Bridge at the site in question based on Memo dated 19.09.2017 (Annexure P-12) as such is not well founded.

Undoubtedly, as per document placed on record at Annexure P-4, a Committee having been constituted had given recommendations for construction of 22 Railway Over Bridges and 16 Railway Under Bridges. The same apparently were to be constructed on a cost sharing basis between the State Government and the Indian Railways. Apparently, the initial recommendation was for construction of a Railway Over Bridge at the site in question but subsequently a decision was taken for construction of limited height subways at Level Crossing No.141-C, 150-C, C-15B, C-162 and 164-B on the Ambala-Ludhiana Section.

This Court would proceed on the assumption that prior to having taken a conscious decision to construct Railway Under Bridge at different sites including Railway Crossing No.141-C, the concerned

authorities have taken into account all the relevant parameters including traffic intensity, financial viability, technical feasibilities in the nature of strata of soil at the site, availability of site drain, disposal point etc. Pleadings on record in any case do not suggest otherwise.

Tender inquiry for the Railway Under Bridge in question has already been floated and work order has been issued.

It is not the case of the petitioners that necessary clearances and no objections have not been procured from the concerned authorities under the State of Punjab and railways prior to embarking upon construction of the Railway Under Bridge at the site.

Under such circumstances, this Court does not find any basis to intervene and to stall the construction of the Railway Under Bridge at Railway Crossing No.141-C at Ambala-Ludhiana Section and which would be in the nature of an infrastructure facility for the benefit of public at large.

Writ petition accordingly is dismissed.

**03.10.2019***harjeet***(TEJINDER SINGH DHINDSA)  
JUDGE**

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| i)  | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable?        | Yes/No |