

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

CWP 20015 of 2018

Date of Decision: August 21, 2020

Amrik Singh	Petitioner
Versus	
Union of India and others	 Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Jagdish Manchanda, Advocate
for the petitioner.

Mr. D.K. Singal, Advocate
for respondents No. 1 and 2.

Ms. Harsh Rekha Kapoor, AAG, Haryana
for respondents No. 3 and 4.

Mr. Parveen Chander Goyal, Advocate
for respondent No.5.

FATEH DEEP SINGH, J. (Oral)

The matter has been taken up through
video-conferencing on account of outbreak of pandemic COVID-
19.

Petitioner Amrik Singh has invoked the jurisdiction of this Court through instant civil writ petition under Articles 226/227 of the Constitution of India seeking issuance of writ in the nature of *certiorari*, *mandamus* directing the respondents to open the minor culvert (Pulia), which has been blocked by private respondent No.5 and as a result of which the standing crops of the petitioner and other adjoining farmers were being damaged. The petitioner has also sought sanctioning of second culvert at 250 meters from the culvert at meter No. 65150.

The petitioner claims that he and his family owns 168 Kanals and 04 Marlas at Ambala-Kaithal highway, which has been declared to be National Highway and, thus, transferred to National Highway Authority of India (hereinafter to be referred as **the NHAI**). The petitioner alleges that during the rainy season water accumulates at culvert of 65150 meters, regarding which, representation has already been moved and that it necessitates reconstruction of new culvert at a distance of 250 meters. Aggrieved over the fact that the crops of the petitioner have been damaged on account of accumulation of water in their fields as the culvert at 65150 needs to be broader and widened claiming that respondent No.5 who happens to be MLA (since deceased) now being represented by his son Gaganjot Singh has closed the culvert by placing mud on the opening as a consequence of which the water is accumulating

causing irreparable loss to the crops of the petitioner. It is contended that in spite of repeated representations and efforts of the petitioner it did not bear fruit compelling invoking the jurisdiction of this Court.

Respondent No.4 filed a concise reply shrugging off any responsibility to this effect from his shoulders. A detailed reply was filed by respondent No.2 admitting that due to heavy rain fall and being catchment area usually water accumulates at the culvert, however, the answering respondents ensured that the same is drained out before any substantial loss accrues to land owners in the area. It is emphatically reiterated that since two culverts have been provided within 602 meters and, therefore, there is no necessity for providing any culvert at a distance of 250 meters and being only to facilitate passage of water during the rainy seasons there was no necessity for such a new culvert. The respondents have relied upon the photographs and other documents including a letter dated 29.07.2020 to drive home the point that private respondent No.5 has dismantled the pipes and blocked the drain near culvert.

Private respondent No.5 did not file any response to these averments.

Heard Mr. Jagdish Manchanda, Advocate for the petitioner, Mr. D.K. Singal, Advocate for respondents No. 1 and 2, Ms. Harsh Rekha Kapoor, AAG, Haryana for respondents No.

3 and 4 and Mr. Parveen Chander Goyal, Advocate for respondent No.5 and perused the record.

It was on the request of the parties this Court vide order dated 31.07.2020 had in fact appointed the area Kanoongo to visit the spot and make his report which is dated 07.08.2020 and who has furnished the same with the site plan and photographs. None of the parties had filed any response/objections to the same.

Appreciating the submissions from the innumerable photographs placed on the records, the fact that even the local commissioner appointed by this Court had in his report stated that on account of unauthorized **Bandh** by putting earth and raising construction water has logged which inevitably suggest that it is done by respondent No.5 and so the water stagnation has occurred. Even the authority which is responsible for maintenance of the road and adjoining culverts for ensuring smooth passage of the water during the rains in its report by the Resident Engineer dated 29.07.2020 has categorically stated that as under:-

“But, after the discharge of the water recently Sh. Gagan Jot Singh Sandhu son of late Sh. Jaswinder Singh Sandhu has dismantled the pipes and blocked the drain. If in near future heavy rains occurred, the fields of the petitioner will be flooded as down-

stream longitudinal drains are blocked by Sh. Gagan Jot Singh Sandhu son of Late Shri Jaswinder Singh. The present situation is also shown in the sketch is also enclosed and recent photographs are also enclosed as Annexure-B herewith for your kind perusal”.

From the same, it is clearly elicited that it is none but respondent No.5 who has misused his political connections and influence to block the drain and dismantled the pipes of the NHAI. It is as a consequence of this illegal and unwarranted act of respondent No.5, which has led to this accumulation of rain water and which is entering the fields of the petitioner and causing loss to them. The petitioner being a citizen of this country is entitled to be treated alike in view of his fundamental right of equality before law by virtue of Article 14 and that it even otherwise infringes his valuable right granted by virtue of Article 19 of the Constitution which provides for the petitioner like persons to carry on their occupation. More so, the widened scope of Article 21 of the Constitution covers this right of life and liberty of the petitioner and thereby not only earning his livelihood but also right to live with dignity. What one can perceive that being a political connected person respondent No.5 had influenced respondent No.4 and who has tried to be evasive in his reply obviously aimed at succumbing to the

political pressure of respondent No.5.

Though the petitioner may have other legal remedies available to him under law of the land, however, in view of there being curtailment of his fundamental rights which are causing irreparable loss and injury to the petitioner necessitates and this Court in view of urgency involved of as petitioner's crops may be damaged in this rainy season impels this Court to issue directions to the official respondents to ensure that the obstacle/obstruction being so caused by respondent No.5 or his agents of the culvert in question is removed immediately and ensure that in future too there is no accumulation of water/obstruction in the area which might have adverse impact on the farmers in the vicinity. This Court cannot help observing that in spite of a categorical stand of the NHAI that respondent No.5 has dismantled the area of the culvert and blocked it and in spite of this gross illegal act, the authorities have kept mum is reflective of their insolence towards protecting the interest of its citizens and succumbing to political pressures and showing utmost servility towards a political figure.

The claim of the petitioner for new constructions of culvert at a distance of 250 meters has been well taken care of in view of widening of the NHAI at that point but did not feel it technically feasible and necessary and which is more of a decision that rests with the NHAI to be taken as per the

technical advice and the Court is not supposed to venture in this aspect of the matter.

In the light of the foregoing discussion, the present petition stands partly allowed to that extent.

A copy of this order be sent to the official respondents for due compliance.

August 21, 2020
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No