



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.06.2022

Coram:

THE HONOURABLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.12254 of 2022
and
W.M.P.No.11709 of 2022

Makkal Nalavazhvu Sangam Krishnagiri,
(Regn.No.193/2018),
Rep. by its Secretary C.Siraj,
No.1/62, Poosaripatti,
Peddathalapalli Post,
Krishnagiri District.

.. Petitioner

Vs.

1. The Government of India,
Rep. by its Secretary to Government,
Ministry for Road Transport, Highways
and Shipping,
No.501, Transport Bhawan,
New Delhi-110 001.
2. National Highways Authority of India,
Rep. by its Regional Officer,
Chennai Region,
Sri Tower, 3rd Floor,
No.34, Industrial Estate,
Guindy, Chennai-600 032.
3. The Project Director,
National Highways Authority of India,
No.259, Salem Main Road,
Near K.A.K.C.Petrol Bunk,
Krishnagiri-635 001.
4. The District Collector,
Krishnagiri District,
Krishnagiri-635 001.
5. The Inspector of Police,
Gurubarapalli Police Station,
Gurubarapalli,
Krishnagiri District.

.. Respondents



Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the impugned order passed by the third respondent, dated 19.08.2021 in NHAI/11015/Petition/2021/PIU-K'giri/970 and quash the same, consequently, direct the respondents 2 and 3 to re-consider public grievances with regard to minor change in the location of Vehicle Under Pass (VUP) from Sikkarimedu to existing Pollupalli Inter-Junction, which is near Medical College Hospital, 300 mts. towards Krishnagiri, in National Highway-7, Krishnagiri-Hosur Krishnagiri District.

For petitioner : Mr.M.R.Jothimanian

For respondents: Mr.P.Muthukumar,
State Govt. Pleader for RR - 4 and 5

ORDER

(The Order of the Court was made by The Honourable Chief Justice)

By this Writ Petition, challenge is made to the order dated 19.08.2021. The order aforesaid has been passed in compliance of the order passed by this Court in the earlier Writ Petition in W.P.No.13132 of 2021, dated 23.06.2021. It was on the representation to re-consider the under-pass of the proposed new fly-over to avoid accidents. Pursuant to the direction of this Court in the earlier Writ Petition, the third respondent has passed order impugned herein. They have given the justification to locate the under-pass and it has been challenged by the petitioner mainly on the ground that the proposed under-pass is away from the medical college and other educational institutions, and therefore, in the absence of the under-pass at the appropriate location, it is going to cause congestion of the traffic. The prayer has been made for re-consideration of the representation made by the petitioner.

2. Learned counsel for the petitioner submitted that the under-pass already exists and close to it, another under-pass has been proposed ignoring the representation made by the petitioner. The proposed under-pass is not going to serve the purpose having been proposed at the location far from the medical college and other educational institutions. Yet ignoring the representation and for the reasons given therein to locate the under-pass as advised by the villagers, the impugned order has been passed. It is also submitted that the existing under-



pass is going to be closed by the respondents or going to be shifted in an arbitrary manner and thus, there exists all the more reason for the Court to cause interference in the impugned order.

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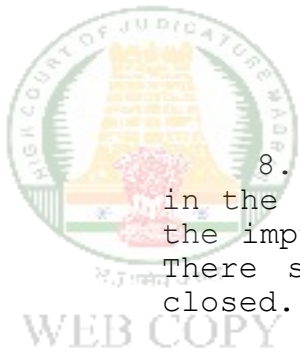
3. We have considered the submissions made by the learned counsel for the petitioner and the learned State Government Pleader appearing for the respondents 4 and 5 and perused the materials available on record.

4. The petitioner is a litigant on the second occasion, as the earlier Writ Petition was disposed of, with a direction to the respondents to consider the representation made by the petitioner. In terms of the order passed by this Court in the earlier Writ Petition, a detailed order has been passed by the respondents to justify the location of the proposed under-pass.

5. The issue as to whether where the under-pass is to be located, can be decided only on the technical advise and for that, the Courts should not generally cause interference not being technical expert in the matter. It is apart from the fact that the respondents have assigned reasons to locate the proposed under-pass, which we do not find per-se arbitrary or illegal and otherwise, the impugned order, even as per the pleadings made in the Writ Petition, does not refer to the closure of the existing under-pass or its shifting, though it was orally argued by the learned counsel for the petitioner but he failed to refer to any pleading or document to show the decision to close the existing under-pass or its shifting.

6. Taking into consideration the over-all facts of the case, and finding no illegality in the impugned order to justify the proposed location of the under-pass, we do not find any reason to cause interference in the impugned order. In fact, the under-pass cannot be located as per the convenience of the individuals. The decision has to be taken after considering various aspects of the matter, which includes the feasibility to construct the under-pass, apart from the other aspects.

7. Reference to certain orders, was given, but it could not be demonstrated that the proposed under-pass is in violation of any of the orders or decision taken by the respondents, and for that, we have gone through the Manual of Specifications and Standards for Six Laning of Highways (Second Revision) by the Indian Roads Congress, 2019. If the proposed under-pass is to be located as per the desire of the petitioner, then it would be very close to the existing one.



8. In view of the above and for the reasons already assigned in the order, we do not find any reason to cause interference in the impugned order. The Writ Petition is accordingly dismissed. There shall be no order as to costs. Consequently, W.M.P. is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

cs/hvk

To

1. The Government of India,
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5. The Inspector of Police,
Gurubarapalli Police Station,
Gurubarapalli,
Krishnagiri District.

+1cc to the Government Pleader, S.R.No.32575

W.P.No.12254 of 2022

PM(CO)
SB(14/06/2022)