

**221 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CWP-10148-2023****Date of decision : 28.07.2023****Harvinder Pal Singh Chawla****.....Petitioner****versus****State of Punjab and others****..... Respondents****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ***********Present :- Mr. R. Kartikeya, Advocate
for the petitioner.****Mr. Arun William, AAG, Punjab.****Mr. Ashok Kumar Bazaz, Advocate
for respondents No.2 and 3.***********RAJESH BHARDWAJ, J.**

Prayer in the present petition is for summoning and quashing the impugned decision of the respondents whereby the earlier well reasoned decision taken by the Committee of Chief Engineers dated 13.12.2022 for increasing the road clearance height of last two spans P17-18 & P-18-A2 of the Railway Over Bridge over the Railway Crossing, Pakowal Road, Ludhiana while considering the plight and hardship of the local residents has now been reversed without any rhyme or reason and to the prejudice of the right of livelihood of the petitioner and others and for further issuance of a writ in the nature of Mandamus or any other appropriate writ, directing the respondents to undertake the erection of the last two spans P17-18 & P-18-A2 of the Railway Over Bridge over the Railway Crossing, Pakowal Road, Ludhiana in terms of the designs approved by the Committee of Chief Engineers in its meeting dated 06.03.2023.

Learned counsel for the petitioner has submitted that the petitioner is representing the interest of the local commercial shop owners and has also preferred the petition in the representative capacity. It has been contended that the petitioner is aggrieved with the action of the respondents wherein initially the decision was taken on the basis of representation moved by the petitioner and other affected persons and on the report of the technical expert, to increase the road clearance height of last two spans P17-18 & P18-A2 of the Railway Over Bridge (ROB) so that the livelihood of the petitioner and others be not affected. It has been submitted that in the area regarding which the petitioner filed this petition, about 15 commercial establishments are running their business. The Pakhowal road is intersected by a railway line and considering the necessity and convenience of the residents, the respondent decided a ROB to be constructed for facilitating the movement of the traffic and decongestion. It is submitted that the petitioner and other similarly situated persons had no objection however, the main dispute is with respect to the road clearance height of the last two spans P-17-18 & P18-A2 of the proposed ROB. He submits that as the business activity of the petitioners would be adversely affected hence, the representation was made before the respondents-authorities for reconsidering the grievances by increasing the length of the ROB. It was considered by the respondents but later on in view of passing the impugned order, it was decided that the proposed movements on the basis of the representation of the petitioner had been shelved and ROB would be constructed with the old design. Hence, the petitioner is aggrieved and has approached this Court by way of the present petition.

This Court issued notice to other respondents and directed them to file their reply. The respondents filed the reply by way of affidavit of Sh. Sanjay Kanwar, Superintending Engineer (Civil), Municipal Corporation, Ludhiana on behalf of respondents No.2 and 3.

Learned counsel for the respondents has submitted that on the basis of proposal of LSCL the construction of the ROB was approved keeping in view the overall interest of the society. The convenience of the public in large was taken into consideration and the plan was approved. He submits that the representation filed by the petitioner was taken into consideration and accordingly, the grievances raised were deliberated in the experts meeting and the grievances raised were redressed in view of the decision of the experts. He had drawn the attention of this Court to the affidavit filed wherein it has been deposed that the decision was taken in the 40th, 56th and 71st meeting of CLTSC. The Traffic Expert apprised that the height at the intersection of Kochhar market and Pakhowal Road, as per approved drawing was only 2.8 meters and in that regard, modification may be made and the height kept at 4.5 meter so that in case of any emergency, the intersection can be opened to release the traffic. It was proposed that the proposed 5.5 meters wide road RUB-2 in future may be insufficient to meet the traffic load and thereafter, the width at this stage may be increased to 7.5 meter. The contractor accordingly submitted modified General Arrangement Drawings of ROB on 20.02.2020, as per which, on increase in the height of the ROB at Kochhar market junction, the length of ROB was increased by 29 meters. Thus, it is submitted that by increasing the length of ROB by 29 meters, the original site of the ramp has been changed as the ROB had to be extended by another 29 meters and

thus, by increasing the height of the ROB, the ramp which was coming in front of the commercial site of the petitioner had been extended within the permissible limits as per the decision of the Experts Committee. Learned counsel has submitted that as per instructions available, the project is virtually complete as the major part of the construction is already over. It has been submitted that the project has been constructed keeping in view the overall interest of the society and the grievances of the petitioner have also been taken into consideration and the extension is within the permissible limits as per opinion of the Experts Committee. It is submitted that as the grievance of the petitioner has been redressed, this petition be disposed of.

I have heard counsel for the parties and perused the record. It is apparent that the project of ROB has been proposed in the larger interest of the society and the grievance of the petitioner has also been taken into consideration. The affidavit filed by the respondents would show that the Expert Committee has taken into consideration the grievances raised by the petitioner and other similarly situated persons and the same are redressed and extension is allowed within the permissible limit as opined by the Expert Committee. Thus, nothing more survives for the adjudication in this writ petition. The petition is disposed of with direction to the respondents to complete the project at the earliest in view of the submissions made and the affidavit filed before this Court.

28.07.2023
m. sharma

(**RAJESH BHARDWAJ**)
JUDGE

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