

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH.

206

CWP-15595-2018 (O&M).
Date of Decision: 12.02.2024.

GIAN CHAND AND OTHERS

... Petitioner(s)

Versus

UNION OF INDIA AND OTHERS

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Ms. Richa Sharma, Advocate, for
Mr. Amar Vivek Aggarwal, Advocate,
for the petitioner.

Ms. Muskan, Advocate, for
Mr. Amit Arora, Advocate,
for respondents No.1 to 3.

Mr. Teevar Sharma, AAG, Punjab,
for the respondent No.4.

VINOD S. BHARDWAJ, J. (ORAL)

CM-4022-CWP-2021

Present misc. application has been filed under Section 151 of
the Code of Civil Procedure, 1908, for placing on record reply on behalf of
respondents No.1 to 3 and also for seeking exemption from filing certified
copies of Annexures R-1 to R-6.

The application is allowed subject to all just exceptions.

The Registry is directed to tag the same at an appropriate place in the paper book.

Main case

Prayer in the present writ petition is for seeking directions to the respondents-Railway Board-cum-Ministry of Railways, to consider and examine the genuine and rightful request of the petitioner for creating a Railway Station/Stoppage at village Sanghol, on the recently commenced railway operations on the newly built Railway Line from 110 kms. Chandigarh to Ludhiana leading to Amritsar via Mohali, Kharar, Morinda, Khamano, Samrala, Maadpur and Sahnewal etc.

Learned counsel appearing for the petitioners contends that the present writ petition has been filed for considering the request of the villagers to examine the feasibility of creating Railway Station/Stoppage at village Sanghol in view of newly commenced railway operations. The said village has 117 Red Stone Sculptures including a Buddhist Stupa. These are in the form of pillars, coping stones, and Cross bars belonging to the Mathrua School of Art which is believed to be nearly 3000 years old. The site in question is amongst biggest discoveries in the field of archeology and largely reflect on development and course of Indian Culture and Civilization. It is contended that the Government of India had taken over the area of village Sanghol vide Notification No.10/52/08-4TC/1185 in the year 2008 for the public purpose namely protection of ancient sites known as 'Buddhist Stupa Site SGL-11, Village Sanghol, (Ucha Pind), District Fatehgarh Sahib, Punjab.

She further submits that as large number of tourists, students and visitors throng these sites, the Railway Station/stoppage should be provided at the site since the nearest railway station is at a distance of nearly 10 kms, from the said village. She contends that the petitioner had earlier approached this Court vide CWP-11856-2013 which was disposed of vide order dated 28.05.2013 with a direction to the respondents-Railways to consider the representation of the petitioner and to take a decision thereupon. It is submitted that as no decision was conveyed to the petitioners, the present writ petition has been filed.

Pursuant to the notice, short reply way of counter affidavit of Shiv Dular Singh Dhillon, Deputy Commissioner, Fatehgarh Sahib, has been filed which is a formal reply.

A separate reply has also been filed by the respondents No.1 to 3/Railways through the Senior Divisional Commercial Manager, Northern Railway, Rail Vihar, Ambala Cantt. The relevant extract of the written statement filed by the respondents No.1 to 3/Railways is as under:-

“4. That pursuant to the said direction, the then Senior Divisional Commercial Manager sought comments and recommendations of the relevant / concerned Authorities like Senior Divisional Engineer, Ambala, Senior Section Engineer (West), Sirhind to determine operating and engineering feasibility of opening a Halt Station at Village Sanghol, Tehsil Khamanon, District Fatehgarh Sahib, as required by the petitioners. Reports of the concerned Officers were duly received and studied at the level of the Competent Authorities and it was found that it would not be feasible to establish the

said railway halt for the time being, for the reasons mentioned below.

xxx xxx xxx

6. That in fact Village Sanghol is well connected with a metaled road and is easily approachable either by private taxies or regular bus service running between Chandigarh and Ludhiana. Even the answering respondents have verified from the Museum established at the site that very few visitors come to see the place. The number of visitors is approximately 40 to 50 in a month during the past 3 to 4 years and out of them there is only a microscopic number of the foreign visitors. Moreover, connectivity of museum is much better by road than by train. Thus there would be no use in establishing railway station/halt as far as museum visitor's footfall is concerned

7. That in compliance to Hon'ble high court CDG dt. 28.05.13 in CWP 11356 of 2013 previous study by staff working on operational, engineering and financial site with the Railways have shown that total cost for running the Railway Stop (excluding cost of establishment) would be around Rs. 27,26,550/- Lacs per annum, whereas the return would be only Rs. 17,04,550/- Lacs per annum. That means the Railways would have to bear a loss of Rs. 10,22,000/- per annum besides Capital Cost

8. That to substantiate the above submissions, copy of the letter dated 25.09.2013 sent by the Senior Divisional Commercial Manager, Ambala to the Divisional Engineer, Northern Railway, Ambala Cantt. seeking such viability is appended herewith as Annexure R-1. Similar letter dated 25.09.2013 was also issued to the Senior Divisional Operation Manager, Northern Railway, Ambala Cantt., copy of which is appended herewith as Annexure R-2. The said information was

sought on the basis of a report dated 11.09.2013 submitted by the Chief Commercial Inspector Marketing of Northern Railway, Ambala, copy of which is appended herewith as Annexure R-3. While museum is on the National Highway-95, its distance from proposed site of railway station is approximately 4.5 Kms. through kacha village road

9. That on receipt of CWP 15595 of 2018 in the Hon'ble High Court of Punjab & Haryana at Chandigarh the matter was examined from Commercial Engineering and Operating department's point of view. A Copy of such examination is appended herewith as Annexure R-4, R-5, R-6 shows that the capital cost for establishing the halt without shramdan would be Rs. 61,98,000/-, Besides Capital Cost, cost of stoppage of one pair of train would be Rs. 26,46,980/-, expenditure on repairs and maintenance @ 5% would be Rs 3,09,900/-, commission payable to the halt contractor would be Rs. 1,76,021/- and interest of capital cost @ 7.5% per annum would be to Rs. 4,64,850/-per annum. Thus the annual expenditure for opening the halt would be Rs. 35,97,751/-, whereas earning would be only Rs 23,46,950/- Thus, the new halt will give an approximate operational loss of about Rs. 12,50,801/- per annum besides Capital Cost for establishment of halt station. In view the operational loss, the opening of new halt at Sanghol is not found commercially justified. 10. That it is under these circumstances after fresh study having been undertaken the opening of new Sanghol halt station between New Morinda to Khumano station (NMDA-KMNN) over New Morinda to Sanehwal (NMDA-SNL) section is not remunerative to the Railways, Hence opening of new halt is not commercially justified as of now."

Even though the above said written statements had been filed in January 2019 and March 2021, however, no rejoinder/replication to controvert the factual aspects narrated therein has been filed.

No other argument has been raised.

I have heard the learned counsel appearing for the respective parties and have also gone through the documents appended along with the present petition with their able assistance.

It is evident from a perusal of the aforesaid reply that the Railway has examined the said proposal and has quantified the operational loss at Rs.10.22 lakhs per month besides capital costs. It was also noticed that that the traffic at the said village had been minimal and that the site would be at a distance of 4.5 kilometers in the event the new Railway halt is created whereas the existing distance is only about 10.40 kms from the Morinda Railway Station and 6.7 kms from Khamano Railway Station, hence, the creation of an additional halt is not likely to redress any difficulties. Further, the village is well connected from Morinda as well as the Khamano Railway Stations and there is no complaint being witnessed as a result of distance of the said Railway Station. The overall impact would be less than 1.50 kms. It is also noticed that the operational cost for running the railway stop excluding costs of establishment would be around Rs.27.26 Lakhs and that the capital costs for establishing the halt would be nearly Rs.61.98 Lakhs. In addition thereto, cost of stoppage of one pair of train would be Rs.26,46,980/- and expenditure on repairs and maintenance @ 5% would be Rs.3,09,900/- approximate.

Taking into consideration the totality of circumstances, the study, the import availed, the feasibility as well as the commercial viability the Railways have recommended that opening of a new halt at village Sanghol is not commercially justified.

Since this aspect has already been examined by the respondents and a valid objective reasons have been given, it is not upto this Court to substitute the said reasons for an opinion of its own. The High Court in exercise of power of judicial review does not supplant its own decisions for that of the competent authority who are the best judges of operating the undertaking/establishment.

The sufficiency of reasons is to not to be seen from the perspective of the High Court rather the same has to be seen from the perspective of the establishment and if such reasons satisfy the test of objectivity, fairness, and rationality, the same cannot be set aside merely because any other substantive view is also possible.

Under the given circumstances, the prayer made by the petitioner in the present writ petition cannot be answered by the High Court in exercise of its powers under Article 226 of the Constitution of India. It is not for the High Court to direct the opening of Railway Stations/stoppages or to carry out operations of the Railways as it is not a subject expert and the said aspect has to be left best to the authorities concerned. The feasibility and viability having already been considered by the Competent Authority and such finding/conclusions not being hit by any Wednesbury principle, there can be no basis for issuance of directions to the contrary

more-so when the same has huge financial implications for the respondents/Railways.

The present writ petition is accordingly dismissed, at this stage.

Liberty is, however, granted to the petitioners to pursue with the respondent Authorities since the prayer has been declined by them only at the present stage.

February 12, 2024
raj arora

(VINOD S. BHARDWAJ
JUDGE

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