



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA No.3009 of 2024 (O&M)
Date of Decision: 28.11.2024

Prime Automobiles Pvt. Ltd.
.....Appellant.
Versus
Union of India and others
.....Respondents.

CORAM: ***HON’BLE MR. JUSTICE G.S. SANDHAWALIA***
 HON’BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Jasdeep Singh Gill, Advocate
 for the appellant.

 Mr. Ashish Rawal, Senior Panel Counsel, UOI
 for respondent No.1.

 Ms. Sonia Madan, Advocate
 for respondents No.2 & 3-NHAI.

G.S. SANDHAWALIA, J.(Oral)

The present appeal is directed against the judgment dated 22.10.2024 passed by the learned Single Judge in ***CWP No.2852 of 2024*** titled as ‘***Prime Automobiles Pvt. Ltd. Versus Union of India and others***’, whereby the writ petition filed by the appellant was dismissed. The Review Application ***RA-CW No.467 of 2024*** filed by the appellant was also dismissed by the learned Single Judge vide order dated 12.11.2024, while observing that the findings as recorded at paragraph Nos.6.2 and 6.11 of the judgment are in furtherance of the submission made during the course of argument and the same have been duly dealt with.



2. Vide the impugned judgment dated 22.10.2024, the learned Single Judge did not interfere with the order dated 25.01.2024 passed by the respondent-NHAI, whereby request of the appellant for reconsidering the construction of Foot Over Bridge (FOB) in front of the appellant's showroom, YMCA Chowk, Faridabad, had been rejected. The reasoning given in the order was that on the six-laning of Delhi-Agra Section of NH-2, the shifting of location is not feasible.

3. Learned counsel for the appellant has tried to convince us that in case the FOB is shifted approximately 20 meters towards the Delhi side, it would not adversely affect the business of the appellant, as the exit gate of his showroom comes in the way presently. However, we are of the considered opinion that apart from the fact of feasibility, we do not deem it appropriate to subject the experts' decisions to judicial review. Apparently, on merits, the learned Single Judge has looked into the site plan attached by the respondents to show that there are metro-pillars immediately close to the proposed site of construction and any shifting would cause obstruction by them. Further, the fly-over starts at a distance of 90 meters making the shifting implausible. Moreover, there is a cut leading to Mujeshar Village from where the vehicles in large numbers come and go and a high-tension wire also abuts the same, in case the FOB is shifted, it would fall in the Right of Way (ROW).

4. We have also examined the copy of Layout Plan (Annexure R-2/8), produced by the counsel for respondents No.2 and 3-NHAI, which would go on to show that the reasoning given by the learned Single Judge



is justified and factually correct. In such circumstances, the learned Single Judge has not exercised the power of judicial review under Article 226 of the Constitution of India.

5. It is a settled principle that the public interest is to overwhelm the private interest and the infrastructural projects for the larger public interest should be given preference. Once the foot-fall level has been assessed and there is an approach from one side adjoining the showroom of the appellant from Mujeshar Village also and the people have to cross-over on a busy highway, the requirement of FOB is quite essential which is not disputed. It has also been pleaded in the written arguments on behalf of respondents No.2 and 3-NHAI on the basis of which the learned Single Judge has also observed that the FOB cannot be shifted to Delhi side.

6. Similarly, even the copy of satellite picture of FOB (Annexure R-2/9), which has also not been attached with the paper book but produced by counsel for NHAI, would go on to show that there are sewer and electrical utilities situated where the appellant wants to shift the FOB and in such circumstances, the FOB has been proposed to a vacant portion, where there is no such obstruction. In the written arguments of respondents No.2 and 3-NHAI also, it has been submitted that there is an existing fly-over at Km. 32+470, metro pillars on the LHS and the Museshar Village road which makes any shift in the location of the FOB highly unfeasible. The shift in the location towards Delhi side thus is not feasible in view of the existing fly-over at Km. 32+470, the gradient for which starts at 32+490, i.e only 70 meters from the existing location. In such



circumstances, the submissions made by the learned counsel for the NHAI are justified that on account of gradient of the fly-over starting, the shifting cannot take place.

7. Therefore, in view of the engineering feasibilities and keeping in mind the fact that the scope of judicial review is limited, we do not find any plausible reason to entertain the present appeal.

8. Resultantly, the instant appeal is dismissed in *limine*. All pending Civil Misc. Applications also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

November 28, 2024
Yag Dutt

Whether speaking/reasoned: *Yes*
Whether Reportable: *No*