



137

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

CWP-31924-2024

DECIDED ON: 27.11.2024

RAMPAL AND OTHERS**.....PETITIONERS**

VERSUS

UNION OF INDIA AND OTHERS**.....RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJAY VASHISTH.**

Present: Dr. Pankaj Nanhera, Advocate, and
Mr. Nitin Verma, Advocate,
for the petitioners.

SANJEEV PRAKASH SHARMA, J (ORAL)

1. The petitioners have preferred this writ petition, whereby it is prayed as under:-

“Issuance of a writ in the nature of certiorari for quashing the notification S.O. 5376(E), S.O. 5377 (E) and S.O. 5378(E) published in Extra ordinary Gazette of India dated 19.12.2023 (Annexure P-1) under the provisions of sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, (50 of 1962) whereby the respondent no.1 has expressed his intent to acquire Right of User on the land of the petitioners and marginal farmers for laying the AIR Turbine Fuel (ATF) pipeline from village Piyala in Faridabad, Haryana to Jewar, in Gautam Budh Nagar, Uttar Pradesh for proposed Airport in Jewar, which is in violation of guidelines dated 22.11.2016 (Annexure P-5) issued by the respondent No.2 – Ministry of Road, Transport and Highways and the same is arbitrary, unconstitutional and will deprive the marginal farmers and their future generations from enjoying their own property in absolute manner, in interest of justice;

and



Issuance of a writ in the nature of certiorari for quashing the orders dated 07.06.2024 (Annexure P-6) passed by the Competent Authority/District Revenue Officer, Faridabad issued to the petitioners alongwith other marginal farmers by the respondent No.5 whereby the objections raised by some of the marginal farmers have been rejected, in the interest of justice

and

for issuance of a writ in the nature of mandamus for direction to the respondents either to acquire entire land of the petitioners or award full compensation of the entire land as per the prevalent market price to the petitioners as per provisions of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, in the interest of justice

and

Issuance of a writ in the nature of mandamus for direction to the respondents to constitute an expert committee to conduct a detailed survey and re-consider the lay out plan of proposed Piyala Jewar pipeline project (PJPL) and to re-design the lay out plan so as to lay the pipeline alongside the proposed Green Field Expressway from Ballabgarh to Jewar Airport, Gautam Budh Nagar in compliance of guidelines dated 22.11.2016 (Annexure P-5) issued by the respondent no.2 as several other pipelines have been laid alongside National Highways in the country by respondent corporation and other public/private sector enterprises such as the one along NH44 in the State of Tamil Nadu by the respondent No.4, in interest of justice

and/or

any other order or direction, which this Hon'ble Court may deem fit and proper in the facts and the circumstances of the present case, in the interest of justice."

2. Learned counsel for the petitioners submits that while laying down the pipelines, guidelines issued by the Ministry of Road, Transport



and Highways dated 22.11.2016 have not been taken into consideration which provides that in order to have optimum utilisation of the land, utility services should be provided alongside the Highways.

3. Learned counsel for the petitioners further submits that the pipelines which are being sought to be laid down for the purpose of providing Air Turbine Fuel (ATF) to the Jewar Airport from BPCL Piyala, Haryana Establishment are being laid down through the agricultural fields of the farmers which is going to seriously affect their rights.

4. It is submitted that the farmers may likely to grow trees in their farmlands but a specific bar is contained as restriction has been laid down for using such lands in terms of Section 9 of The Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (hereinafter referred as Pipelines Act, 1962).

5. Learned counsel has further submitted that the petitioners had raised objections to the notification issued under Section 3 of the Pipelines Act, 1962, but their objections have been rejected wrongfully.

6. He has also invited attention to the notification issued by the National Highways Authority of India inviting public comments relating to laying of pipelines and OFC ducts.

He also has relied on the information taken as overview of BPCL pipelines to submit that ATF pipelines can be laid down through the cities and under the roads, also.

7. An example has been highlighted by counsel for the petitioners relating to Bombay ATF pipelines. Similarly, he also has cited an example relating to Kochi ATF Pipelines.



8. We have carefully considered the submissions as above, and we find that the notification was issued under Section 3 of the Pipelines Act, 1962, declaring usage of the land for the purpose of laying down the ATF pipelines from village Piyala to Jewar Airport.

The Authority invited objections and after hearing the objections, order has been passed under Section 5 of the Act. The farmers have objected to the proposed pipeline going through the fields and had submitted that if the proposed pipeline is laid alongside the road, then both the Government and the farmers would be benefited and they can be saved from the persecution because of passing of the pipeline through their land. It was also submitted by the farmers that if there is a small leakage in the pipeline, it can cause huge damage and be a cause of bigger calamities to harm human life as well. The farmers have also submitted that it would cause inconvenience to them in agricultural farming.

9. Taking into consideration the objections, the Competent Authority of the Piyala Jewar Pipeline Project has made observations, after considering the submissions of the concerned Project Engineer and the Site Engineer, which are reproduced as under:-

“In context of the said objections, the representatives of Bharat Petroleum Corporation Limited – Shri Vishal Paliwal (Project Leader) and Shri Tanveer Khan site engineer were present and have expressed that the proposed pipeline will be laid at a depth of around 1.5m below the farmland which will not cause any hindrance to the farmers in agriculture activities. The land will not be divided into two parts as the pipeline will be laid below the land and nor there is any impact on the crops

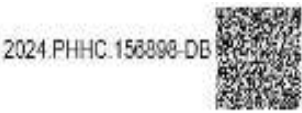


output. Because, when the pipeline is being laid the upper-level soil of the fertile land is kept at one side and re-enclosed on its original place after the pipeline has been installed. The alignment of pipeline has been decided keeping in mind the technical standards. Changing the alignment is not possible on technical grounds. Nobody will be exploited if the pipeline is laid and there will be no harm of any property by laying of pipeline because the pipeline has been laid as per the international standards. So, it is not technically correct to lay the pipeline alongside the Jewar airport road.”

10. Having noticed the submissions of the concerned technical experts, concerned Competent Authority rejected the objections of the petitioners.

11. We find that so far as the guidelines issued by the Ministry of Road, Transport and Highways dated 22.11.2016 are concerned, the same do not relate to pipeline of a nature as being laid down by the respondents. The guidelines are for laying down the utility services. Since, the pipeline does not relate to utility services for the commuters on the Highways, argument raised by learned counsel for the petitioners is found to be misconceived, and is accordingly rejected.

12. So far as the reference to the invitation of public comments by the National Highways Authority of India (NHAI) dated 27.06.2023 with reference to the different pipelines being laid down by the Bharat Petroleum Corporation Limited is concerned, we find that the same are for different purposes altogether. There are OFC ducts along the road and the said pipelines seem to be crossing certain areas of NHAI for which public



comments have been invited. The same, has therefore, no relevance to the present facts of the case.

13. So far as the learned counsel’s reference relating to laying down of Mumbai ATF Pipelines and Kochi ATF Pipelines is concerned, we find that the pipeline has been laid down under the entire city of Mumbai and Kochi, respectively, whereas in the present case, it is a pipeline which is going from Piyala to Jewar Airport, which crosses through several agricultural fields. Having taken note of the technical experts opinion, the objections have been rejected. We do not, therefore, find any perversity in the same.

14. The Court also notices that the fields of the concerned farmers would in no manner be affected, on account of laying down of the pipelines, which is admittedly going to be laid down 1.5 metres below the earth level and the submission of learned counsel for the petitioners of growing trees is also found to be wholly misconceived, as none of the farmers have come out with the case that they are into horticulture and not agriculture, as has been observed by the concerned authority.

15. In view thereto, no cause for interference is made out. The writ petition is accordingly dismissed.

16. Pending miscellaneous application(s), if any, also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

27.11.2024
Lavisha

Whether speaking/reasoned ✓ Yes/~~No~~
Whether reportable ✓ Yes/~~No~~