



\$~14

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CONT.CAS(C) 329/2023**

AVADH KAUSHIK

..... Petitioner

Through: Petitioner in person.
Mob: 9811455431
Email: avadhkaushik@gmail.com

versus

ANANT KUMAR & ORS.

..... Respondents

Through: Mr. Avishkar Singhvi, ASC with Mr. Naved Ahmed and Mr. Vivek Kr. Singh, Advocates for GNCTD.
(Mob: 8527586706)
Mr. A.K. Sharma, EE/PWD and Mr. Chhote Lal, AE/PWD.
SI Narender Kumar, ASI Davender Parvi Officer
Mob: 8920048055

%

Date of Decision: 2nd April, 2024

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

J U D G M E N T

MINI PUSHKARNA, J: (ORAL)

1. The present petition has been filed by petitioner in person, who is a practising advocate before this Court, alleging non-compliance of the order dated 11th August, 2020 passed in *W.P.(C) 2852/2020*, wherein the Court had directed the respondents to take immediate steps for restarting the project of construction of slip road in front of Majnu ka Tila Gurudwara, along with directions to provide police protection, as and when requested.



2. It is submitted that the petitioner in person is stated to be using the Outer Ring Road (“ORR”) for his daily commuting. It is the case, as pleaded in the petition, that despite the construction of various of flyovers, bottleneck occurs in front of Majnu Ka Tila Gurudwara leading to severe traffic congestion, which is worsened by the unauthorised parking.
3. It is submitted that the Delhi Traffic Police recommended construction of a slip road to alleviate congestion, to the respondent no. 2-Public Works Department (“PWD”), which thereafter, initiated the project and selected a contractor towards the same.
4. It is submitted that the contractor at the time of construction faced hindrances from the Gurudwara Management Committee. Thereafter, respondent no. 2-PWD filed a complaint dated 9th August, 2019 with the SHO, Police Station-Civil Lines, Delhi, in regard to the said hindrances that were being caused by the Gurudwara Management Committee. However, due to the non-action by the said SHO, the respondent no. 2-PWD vide letter dated 23rd August, 2019 filed another complaint with the Deputy Commissioner of Police, North District, Civil Lines, Delhi.
5. It is submitted that despite the said complaints, no action was taken by the police, nor any remedial measures were undertaken by the government or the PWD.
6. Thus, subsequently a writ petition being *W.P.(C) No. 2852/2020* was filed by the petitioner, wherein he sought resumption of construction of the slip road. He further sought directions to the police to provide protection and to take requisite action against the wrong doers, who caused the hindrance in the construction. Thus, directions as contained in order dated 11th August, 2020 came to be passed and the same reads as under:



“xxx xxx xxx

6. In view of the above and as the foreclosure of the Contract was done by the respondent nos.2 and 3 only on the ground of lack of police protection, the respondent nos.2 and 3 are directed to take immediate steps for the restart of the project and the respondent nos. 4 and 5 are directed to provide police protection, as and when requested by the respondent nos.2 and 3 in this regard.

xxx xxx xxx”

7. It is the case on behalf of the petitioner that the inaction, despite the undertakings by the responsible authorities of the PWD, amounts to willful disobedience and causes prejudice to the public.
8. This Court notes that a Status Report has been filed on behalf of respondent no. 2-PWD, wherein it is categorically stated that complying with the Court’s Order dated 11th August, 2020, the respondent no. 1 had initially commenced the construction work of the slip road in front of Majnu ka Tila Gurudwara, as proposed by the Deputy Commissioner of Traffic Police in letter dated 23rd May, 2019.
9. Subsequently, a team led by officials from the Central Road Research Institute, Delhi Traffic Police, PWD and Guru Hanuman Society of India, inspected the corridor and suggested various improvements, which were initiated on the basis of the circulated suggestions by Delhi Traffic Police dated 6th August, 2020. Furthermore, it was stated that the task was part of the 77 corridor list identified for traffic improvement by Delhi Traffic Police.
10. It is the case on behalf of respondent no. 2 that the traffic movement had been made continuous on 14 meter wide carriageway and a Foot Over Bridge (“FOB”) was under construction for pedestrian movement. Thus, it is submitted that the existing facilities such as the FOB are being replaced and



expanded. It is further submitted that the issue of unauthorised parking, is also regularly being addressed by the Delhi Police.

11. Thus, it is submitted that given these circumstances there is no need for a slip road in the area in question, as the old signalized system at Majnu Ka Tila has been abolished.

12. Learned Additional Standing Counsel appearing for the respondent draws the attention of this Court to the Status Report filed on behalf of respondent no. 2, relevant paras of which read as under:

“xxx xxx xxx

9. *Consequently, the initial proposal to make the slip road at Majnu ka Teela T-Point was superseded by the suggestions of the Delhi Traffic Police dated 06.08.2020, which had laid down the comprehensive plan for traffic de-congestion for the entire area between Wazirabad Flyover and ISBT Kashmiri Gate, including Majnu Ka Teela & Chandgi Ram Akhara, which suggested closing the central verge & the existing Traffic Signal at Majnu Ka Teela. A copy of the letter dated 06.08.2020 issued by the office of DCP (Traffic) is annexed hereto and marked as ANNEXURE -1.*

xxx xxx xxx

13. *It is stated that now from Wazirabad South End to Chandgi Ram Akhara, a uniform 14.00M wide bituminous road/carriageway is available. It is humbly submitted that the scheme being implemented as per mandate of 77 Corridor is the best possible solution for the betterment of traffic related issue between Wazirabad to Majnu Ka Tila Gurudwara.*

xxx xxx xxx

16. *Furthermore, since the instructions to construct a slip road was superseded by the DCP (Traffic) on 06.08.2020, there was no need to construct a slip road, contrary to the suggestions dated 06.08.2020, which was a comprehensive report following the joint inspection of officials from CRRI, Delhi Traffic Police, PWD and NGO Guru Hanuman Society of India. Therefore, it is stated that the respondents have not acted in contrary to the order of this Hon'ble Court, and have acted in a manner concurrent with the true letter and spirit of this Hon'ble Court's directions. It is stated that the construction of slip road at this stage would not affect the traffic any longer as the central verge has been closed and the exit at the slip road would merge with*



the same road ahead.

xxx xxx xxx”

13. This Court is of the view that once a policy decision has been taken by an Expert Body, this Court shall not interfere with the said decision. The Delhi Traffic Police has already considered the ground situation in the area in question and has come to a considered decision that the construction of slip road is no longer needed in the area in question. This Court will not sit over the decision by the Expert Body, which has given a considered decision after considering the traffic movement and other relevant factors.

14. Thus, Supreme Court in the case of *State of Haryana vs. Ashok Khemka and Another*¹, observed that the judiciary should maintain restraint in interfering with the decisions of the executive bodies, especially where specialized expertise is involved. Further, where there is a detailed inspection, as in the present case, the High Court ought not to deal with questions involving technical aspects and leave the same with the concerned experts. The relevant portion of the aforesaid judgment, is reproduced as under:

*“25. Now, turning to the issue framed in Paragraph 22 of this Judgment above, we find ourselves grappling with a foundational principle of our constitution i.e., that the judiciary must exercise restraint and avoid unnecessary intervention qua administrative decision(s) of the executive involving specialised expertise in the absence of any mala-fide and/or prejudice. In this regard it would be appropriate to refer to our decision in *Caretel Infotech Ltd. v. Hindustan Petroleum Corpn. Ltd.*, (2019) 14 SCC 81 whereunder this Court observed as under:*

“38....It has been cautioned that Constitutional Courts are expected to exercise restraint in interfering with the administrative decision and ought not to substitute their view for that of the administrative authority. Mere disagreement with the decision-making process would not suffice.”

¹ 2024 SCC OnLine SC 258



26. Similarly, this Court in *State of Jharkhand v. Linde India Ltd.*, (2022) 107 GSTR 381 whilst delineating the scope of interference of the High Court exercising jurisdiction under Article 226 of the Constitution of India vis-à-vis a finding of fact by experts observed as under:

“7. As per the settled position of law, the High Court in exercise of powers under article 226 of the Constitution of India is not sitting as an appellate court against the findings recorded on appreciation of facts and the evidence on record. The High Court ought to have appreciated that there was a detailed inspection report by a six members committee who after detailed enquiry and inspection and considering the process of manufacture of steel specifically came to the conclusion that the work of oxygen is only of a “refining agent” and its main function is to reduce the carbon content as per the requirement. The said findings accepted by the assessing officer and confirmed up to the Joint Commissioner-revisional authority were not required to be interfered with by the High Court in exercise of powers under article 226 of the Constitution. The High Court lacks the expertise on deciding the disputed questions and more particularly the technical aspect which could have been left to the committee consisting of experts.””

(Emphasis Supplied)

15. In another such case, the Supreme Court in the case of *Census Commissioner and Others Versus R. Krishnamurthy*², has held as under:

“xxx xxx xxx

33. From the aforesaid pronouncement of law, it is clear as noon day that it is not within the domain of the courts to embark upon an enquiry as to whether a particular public policy is wise and acceptable or whether a better policy could be evolved. The court can only interfere if the policy framed is absolutely capricious or not informed by reasons or totally arbitrary and founded ipse dixit offending the basic requirement of Article 14 of the Constitution. In certain matters, as often said, there can be opinions and opinions but the court is not expected to sit as an appellate authority on an opinion.

xxx xxx xxx”

(Emphasis Supplied)

² (2015) 2 SCC 796



16. Considering the aforesaid, no further orders can be passed in the present petition. The present petition is accordingly disposed of.

MINI PUSHKARNA, J

APRIL 2, 2024/ak