

01.05.2025
(D/L 11)
Ct.-19
(Susanta)

W.P.A. 4290 of 2025

Goutam Ghosh
-Vs-
The Union of India & Ors.

Mr. Sk. Abu Abbasuddin,
Mr. Amit Ganguly,
.... For the Petitioner.

Mr. Pradip Kumar Das, Sr. Adv.
Ms. Ranjana Chatterjee,
Ms. Anjali Das,
.... For the U.O.I.

Mr. Mainak Roy,
Ms. Ankita Chowdhury,
Mr. Atanu Sur,
.... For the NHAI.

1. The report as submitted by the respondent Nos. 2 & 3 that is the functionaries of NHAI authority is taken on record. On behalf of the writ petitioner a supplementary affidavit is also filed, the same is also taken on record.
2. By filing instant writ petition, the writ petitioner has prayed for issuance of appropriate writ/writs against the respondent nos. 2 & 3 commanding them to remove the construction over the National Highway which according to the writ petitioner is causing blockage to the entry and exit of the writ petitioner's place of business which is a weigh bridge.

3. It is submitted by Mr. Abbasuddin, Learned Advocate for the petitioner that the respondent Nos. 2 & 3 authorities have no right to block the access to the writ petitioner's property which is a weigh bridge.
4. In course of hearing, Mr. Roy, learned advocate appearing on behalf of the respondent Nos. 2 & 3 draws the attention of this Court of paragraphs 6-13 of the report as filed today.
5. Mr. Roy further submits that pursuant to the application made by the writ petitioner, the competent authority of NHAI had issued "In-Principle" & "Provisional NOC" to the writ petitioner regarding his prayer for permission to access to his property subject to the condition that the writ petitioner would adhere to the undertaking given with the proposal.
6. It is submitted by Mr. Roy that under cover of the said undertaking the writ petitioner assured and confirmed that he would take up necessary alteration including complete removal /shifting of the approach road of his property abutting on Left Hand Side of NH-2 (new NH-19) at his own cost if so required for the development of National Highways or in the interest of safety.

7. It is further submitted by Mr. Roy that the construction of Foot Over Bridge (FOB) was necessitated on account of request from the local Municipality basically on the ground of safety and security of the pedestrians including school children and factory workers.
8. It is further submitted that though the original Foot Over Bridge with a Ramp was not in the original scope of the subject 6-laning project but the same was approved by the appropriate authority of NHAI on account of Change of Scope.
9. It is further submitted by Mr. Roy that considering the predicament of the writ petitioner a site visit was conducted by the respondent no.3 authority with all the stake-holders including the writ petitioner and it was found that the proposed new Foot Over Bridge with a Ramp which is going to be constructed is not directly obstructing the writ petitioner's access to his property.
10. It is however, submitted that on account of such construction of Foot Over Bridge the writ petitioner was advised to merge his entry and exit ramp with single access (20 Mtr) which is available as per site condition and to submit a revised proposal

to accord approval from the competent authority.

11. It is further submitted by Mr. Roy that since at the time of construction of the National Highway the writ petitioner has already given an undertaking for removal/shifting of the approach road, as such, the petitioner cannot seek a writ of mandamus as prayed for.

12. Learned advocate appearing on behalf of the respondent no. 1 that is Union of India and its functionaries supports that contention of Mr. Roy

13. On careful consideration of the entire material placed before this Court and after going through the copy of the undertaking as has been executed by the writ petitioner and as has been annexed with the instant writ petition at page 24-27 and the report has filed today on behalf of the respondent no. 2 and 3, this Court cannot allow the writ petitioner to take a contrary stand on the ground that the proposed construction of Foot Over Bridge with a ramp is causing obstruction to easy access of his place of business which is situated by the side of National Highway No. 2 (New NH19).

14. It further appears before this Court that the respondent no. 2 and 3 authority in course of inspection of the place of business of the writ petitioner found a single 20 Mtrs access for the entry and exit to the writ petitioner's property and accordingly the said authorities have advised the writ petitioner to merge his entry and exit and to submit a proposal to that effect.

15. In view of such, while disposing the writ petition, this Court grants liberty to the writ petitioner to submit his revised proposal in terms of the inspection report dated 29.03.2025 with the competent authority of the NHAI and in the event, such proposal is submitted the competent authority NHAI is directed to consider such report in accordance with law after giving an opportunity of hearing to the writ petitioner and/or his legal representatives and/or his engineer, if there be any, and to pass a reasoned order soon thereafter and shall communicate such reason order to the writ petitioner preferably by e-mail, if the mail details of the writ petitioner is provided to the competent authority at the time of hearing.

16. It is made clear that the entire exercise as indicated in the forgoing paragraph is to be completed within sixty working days from the date of submission of the revised proposal by the writ petitioner with the competent authority.

17. Liberty is given to the learned advocate for the writ petitioner to communicate the server copy of this order to the competent authority, NHAI authority. The said competent authority, NHAI is directed to act on the server copy of this order.

18. With the aforementioned observation the writ petition is disposed of.

19. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Partha Sarathi Sen, J.)