



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

PUBLIC INTEREST LITIGATION NO.22 OF 2019

Arun S/o Rohidas Patil, Khamla Road, Nagpur

-vs-

Government of India, Dept. of Transport and National Highways, Thr. Secretary, New Delhi and
ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and the Registrar's orders.

Court's or Judge's Orders.

Ms Shaad Mirza, Advocate for petitioner.
Shri S. A. Choudhari, Advocate for respondent No.1.
Shri A. A. Kathane, Advocate for respondent Nos.2,3 and 10/NHAI
Shri D. V. Chauhan, Senior Advocate and Government Pleader with Shri D. P. Thakare, Additional Government Pleader for respondent Nos.4 to 6.
Shri Nilesh V. Fulzele, Advocate for respondent No.7.
Shri V. D. Graham, Advocate for respondent No.8.
Ms Anjali Agrawal, Advocate h/f Shri Rahul Kalangiwal, Advocate for respondent No.9.
Shri N. S. Jadhao, Advocate for respondent Nos.11 and 22.
Shri P. V. Navlani, Advocate for respondent No.12.
Shri C. N. Funde, Advocate for respondent No.13.
Shri A. D. Gabhane, Advocate for respondent No.14.
Shri M. R. Puranik, Advocate for respondent No.16.
Shri R. B. Dhore, Advocate for respondent No.17.
Ms E. S. Sahastrabuddhe, Advocate for respondent Nos.18 and 19.
Shri I. S. Charlewar, Advocate for respondent No.20.
Shri S. P. Dharmadhikari, Senior Advocate with Shri C. S. Dharmadhikari, Advocate for respondent Nos.23 and 24.
Shri J. B. Kasat, Advocate for respondent Nos.25 and 27.
Shri S. V. Purohit, Advocate for respondent No.26.
Shri Girish Kunte, Advocate for respondent Nos.28 and 29.
Shri H. A. Khedikar, Advocate for Intervenor (CAO/1074/2024).

CORAM : NITIN W. SAMBRE AND SACHIN S. DESHMUKH, JJ.

DATE : July 01, 2025

Civil Application (CAO) No.665/2025

1. In this matter, a division of the State Public Works Department is executing a project of construction of flyover through the main part of the city i.e. from Bole petrol pump to Wadi. Since the contractor was not discharging the responsibility under the agreement in accordance with the stipulations, we have caused the appearance of the Executive Engineer who was the ultimate Authority to supervise the project. We

have brought to the notice of the Executive Engineer serious shortfalls/ defaults on the part of the contractor and has given him an opportunity to redress the same as such shortfalls which are brought to our notice by the amicus and the counsel for the petitioner are causing great inconvenience to the public at large including the commuters and the residents of the adjoining areas.

2. After going through the affidavit sworn by the Executive Engineer Shri Naresh Vasantrao Borkar (now promoted as Superintending Engineer), since it is noticed that the same was not giving the clear picture and assurance of compliance, this Court prompted to make such observations in paragraph 9 of the order dated 21/02/2024 which read thus :

“9. However, what action is to be initiated against the officer for filing incorrect affidavit before the Court shall be considered on the next date of hearing. Considering the nature of conduct of the Executive Engineer as has been noted hereinabove particularly the callous attitude towards the Court proceedings and also in the matter of failure to discharge official duties, this Court deems it appropriate to have the affidavit of Chief Engineer, Nagpur Division, Nagpur on the aforesaid conduct. Needless to clarify that if the Court is not satisfied, the Court will be constrained to summon the Principal Secretary, Public Works Department.”

3. The said Executive Engineer has submitted affidavit duly sworn on 18/03/2024. The Chief Engineer, National Highway (Public Works) in his affidavit dated 16/03/2024 has assured that the steps are being taken to redress the grievances of the commuters and also the field visits are carried out thereby issuing appropriate instructions to the contractor in the matter of execution of the work and avoidance of inconvenience to the commuters and residents.

4. It appears that subsequent thereto, the corrective measures were taken and as such the present application is moved seeking deletion of the observations made in paragraph 9 of the order dated 21/02/2024.

5. With the assistance of the learned Amicus and the counsel for the petitioner, we have perused the respective affidavits.

6. It is assured by the learned Additional Government Pleader on instructions and from the Executive Engineer (presently Superintending Engineer) that the construction work of the flyover shall be completed by 31/07/2025. Since the statement is coming with an assurance from the Executive Engineer/Superintending Engineer through the Additional Government Pleader, same is taken on record.

7. In the aforesaid backdrop, we deem it appropriate to delete the observations made in paragraph 9 of the order dated 21/02/2024 against the then Executive Engineer Shri Naresh Vasantrao Borkar.

Civil Application No.665/2025 stands allowed in above terms.

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8. The intervenor has sought to canvass his grievance, however since the respective counsel i.e Shri Kathane appearing for NHAI and Shri S. P. Dharmadhikari, learned Senior Counsel appearing for respondent No.23 sought time to go through the intervention application and if so required file their response, we grant time of three weeks.

Stand over to 23/07/2025.

(Sachin S. Deshmukh, J.)

(Nitin W. Sambre, J.)