

2025:PHHC:001237-DB



216 (2 cases)+105

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

Date of decision: January 08, 2025

CWP-PIL-131-2024 (O&M)

1.

Jaskaran Singh

....Petitioner

versus

Union of India and others

....Respondents

2.

CWP-PIL-115-2024 (O&M)

Rajwinder Singh

....Petitioner

versus

Union of India and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SUDHIR SINGH**

Present:- Mr. Devinder Pal Singh, Advocate for petitioner(s).

Mr. Satya Pal Jain, Additional Solicitor General of India with
Mr. Vibhor Bansal, Senior Panel Counsel
for respondent No.1 – UOI.

Mr. Salil Sabhlok, Senior DAG Punjab
for respondent No.2 – State.

Ms. Swastika Sharma, Advocate and
Mr. R.S. Madan, Advocate
for respondent No.3 – NHAI.

SHEEL NAGU, CHIEF JUSTICE (ORAL)

Vide this common order, above-mentioned two cases are being
disposed of since facts are analogues and issues raised therein are common.

For brevity, recitals are taken from CWP-PIL-131-2024.

2. The present petition has been filed in the shape of Public Interest Litigation (for short 'PIL') raising alleged public cause by challenging vires of Section 3(D)(4) of the National Highways Act, 1956 (for short 'NH Act') and Section 5 of the Arbitration and Conciliation Act, 1996. To make things clear, it would be appropriate to reproduce prayer clause made in this petition, which is as follows:-

“Public Interest Litigation by way of Civil Writ Petition U/A. 226 of the Constitution, praying for the declaration and striking down as unconstitutional, the provision contained in Section 3D (4) of NH Act, 1956, which lays down that a declaration/notification made by Respondent No.1 under Section 3D (1) of the said act cannot be called into question in any Court or by any other authority, on the ground that it curtails the scope of judicial review as contained in Articles 226/227 which forms a basic feature of the Constitution of India;

And

The declaration and striking down as unconstitutional the provision contained in Section 5 of the Arbitration & Conciliation Act, 1996, which lays that no judicial authority shall intervene in matters governed by this part (i.e., Part 1 of A&C Act, 1996), except where so provided in this part, to the extent the above said provision has the effect of curtailing the scope of judicial review as contained in Articles 226/227 which forms basic feature of the Constitution;

And

The declaration and striking down as unconstitutional the Order (P-1) dated 24.09.2014 and its successor notification (P-2) dated 23.06.2022 whereby, the Divisional Commissioners in state of Punjab were appointed as the Arbitrators u/s. 3G (5) of the National Highways Act, 1956, which was passed in direct contravention of Seventh Schedule R/w. Section 12 of Arbitration & Conciliation Act, 1996, on grounds of said impugned notification & order being arbitrary, malafide & based upon extraneous considerations and on account of being violative of Rule of against Bias that is a Principle of Natural Justice protected by right enshrined in Article 14 of the Constitution, therefore being Ultra vires the Constitution of India;

And,

Suspension/Stay of operation of the notification dated 23.06.2022 (P-2) by Respondent no.1, thereby prohibiting the Arbitral Tribunals Constituted by the impugned Notification from proceeding with Arbitration arising out of Land Acquisition under National Highways Act, 1956 till pendency of present petition;

And,

Grant of liberty to the Petitioner and all similarly situated persons enabling them to impugn the Executive Actions in the nature of Notifications/Orders passed under section 3D of the NH Act, 1956 & to impugn any order/award passed under 3G (1) of the NH Act, 1956, before the Hon'ble High Court by invoking Article 226/227 of the Constitution, on grounds of Arbitrariness/erroneous application of law and/or disregard of substantive evidence;

And

Grant of liberty to the Petitioner and all similarly situated persons enabling them to impugn Arbitral awards passed U/s. 3G (5) of NH Act, by Arbitral Tribunals wrongly & illegally constituted under the said impugned order & notification directly by invoking the jurisdiction under Article 226/227 of the Constitution of India, 1950, consequential to striking down as unconstitutional the impugned order (P-1) & Notification (P-2) and the impugned statutory provisions.”

3. It is not disputed at the Bar by learned counsel for the petitioner as well as the respondents that the petitioner's land was acquired for the purpose of construction of National Highway under the NH Act and since the petitioner was not satisfied with the quantum of the award, he assailed the same in terms of provisions of Arbitration and Conciliation Act, 1996. The Arbitrator's award has already been questioned by petitioner under Section 34 of the Act of 1996 by way of FAO-946-2021 titled as “**Union of India versus Raj Vehicle Pvt. Ltd. and others**”, which is presently pending adjudication before this Court.

**CWP-PIL-131-2024 (O&M) AND
CWP-PIL-115-2024 (O&M)**

4. In view of the aforesaid revelation, it is obvious that the petitioner is raising a personal cause under the garb of present PIL.
5. The question that has been raised in this petition challenging the vires of certain Sections of the NH Act and Arbitration Act can very well be raised separately in appropriate proceedings.
6. This Court declines interference in the present case since a personal cause is being raised camouflaged as PIL.
7. Both petitions stand dismissed, accordingly.
8. Pending application(s), if any, shall also stand disposed of.

**(SHEEL NAGU)
CHIEF JUSTICE**

**(SUDHIR SINGH)
JUDGE**

January 08, 2025

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No