



{1}

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

PUBLIC INTEREST LITIGATION NO.10 OF 2025
WITH
CIVIL APPLICATION NO.5601 OF 2025 IN PIL/10/2025 [For intervention]

Shriniwas S/o.Gyandeorao Mundhe
Age: 56 years, Occu.: Social Service &
Agriculture, R/o. Borda, Tq. Gangakhed
Dist. Parbhani
At Present: Gangakhed, Tq.Gangakhed,
Dist. Parbhani.

... Petitioner.

Versus

1. The Union of India,
Through its Secretary,
Ministry of Railway Department.
New Delhi.
2. The Divisional Regional Manager,
South Central Railway,
Nanded Division, Rail Vikas Sadan,
Sangvi Naka, Nanded, Dist. Nanded.
3. The State of Maharashtra,
Through its Chief Secretary,
Mantralaya, Madam Cama Road,
Mumbai – 32.
4. The State of Maharashtra,
Through: The Principal Secretary
Public Works Department,
Mantralaya, Madam Cama Road,
Mumbai – 32.
5. The District Collector,
Parbhani, District Parbhani.
6. The Tahsildar,
Gangakhed, Tq.Gangakhed,
Dist. Parbhani.
7. The Chief Engineer,
Public Works Department,
Nanded Region, Nanded,
Dist. Nanded.

{2}

8. The Executive Engineer,
Public Works Department,
Parbhani, Dist. Parbhani.
9. The Sub-Divisional Engineer,
Public Works Department,
Gangakhed, Tq. Gangakhed,
Dist. Parbhani.

... Respondents

.....

Mr. P.S. Paranjape, Advocate for the Petitioner
 Mr. Rohit Sarvadnya, Senior Panel Counsel for Respondents No.1 and 2
 Mr. A.G. Girase, Government Pleader for respondents No.3 to 9
 Mr. K.J. Suryawanshi, Advocate for Applicant/intervener in
 CA/5601/2025

.....

**CORAM : SMT. VIBHA KANKANWADI AND
 HITEN S. VENEGAVKAR, JJ.**

DATED : 30 JANUARY, 2026

JUDGMENT [Per Hiten S. Venegavkar, J.] :-

1. The petitioner has instituted the present Public Interest Litigation seeking, in substance, directions to the respondent authorities to cancel the proposed construction of a Railway Over Bridge/Railway Under Bridge with service road on Gangakhed–Akoli–Kodri Road (State Highway-34) at Km 0/00 on LC No.17 (Railway Chainage 295/8-9), Taluka Gangakhed, District Parbhani, and to quash and set aside the e-tender notice bearing No.44 for the year 2024–2025 dated 14 February 2025, issued by the Executive Engineer, Public Works Division, Parbhani.

2. The petitioner asserts that the very foundation of the proposed work has ceased to exist because the Railway Administration has, according to him, altered its plans relating to doubling of the railway line between Parbhani and Parli stations, and has decided to shift the alignment of the railway track by about 2–3 kilometres away from the existing track, thereby proposing elimination of LC No.17. It is on this premise that the petitioner contends the proposed overbridge/flyover at the existing location is unnecessary, wasteful of public funds, and legally unsustainable.

3. The factual narrative set out in the petition is as follows. Initially, respondents, including the Union of India and the Railway authorities, had decided to undertake a project of doubling of the railway track between Parbhani and Parli railway stations, the project cost being stated to be about Rs.625.08 crores. The petitioner's case is that later the Railway Department decided not to construct doubling by taking the existing alignment, and instead resolved to shift the track alignment 2–3 kilometres away from the existing track, and to eliminate LC No.17. It is stated that respondent No.2 addressed a communication dated 25.07.2024 to the Executive Engineer, Public Works Division, Parbhani (respondent No.8) and to the Sub-Divisional Engineer, Gangakhed PWD (respondent No.9), informing them of the said

{4}

decision/intention. The petitioner contends that once such communication was issued, it was not justifiable for the PWD to proceed with any tendering for construction of a bridge at LC No.17 on the existing alignment, as the bridge would become redundant upon the track shift.

4. It is pleaded that despite the above, in October 2024, the respondents issued public notice inviting bids. The petitioner asserts that the tender process was illegal, unlawful, and arbitrary because the work itself was not required. The petition then refers to the petitioner acquiring knowledge through newspaper reports, collecting documents, and that several residents and organizations raised objections, but no positive response was received. The petitioner claims to have addressed representations to the Hon'ble Chief Minister of Maharashtra seeking cancellation of the tender notice dated 12.12.2024 (tender No.37) and for stopping the bridge project. It is stated that the Hon'ble Chief Minister called for a report by communication dated 15.01.2025 from respondent No.7. The petition also refers to a representation dated 03.02.2025 by residents of Gangakhed opposing the proposed bridge. The petitioner further points out that by an office note dated 31.01.2025, respondent No.8 communicated that the earlier tender notice regarding the railway under bridge/over bridge was excluded

{5}

and a new revised notice inviting bids through e-tender was directed to be followed, and that tender No.37 dated 12.12.2024 be treated as cancelled. The petitioner relies upon a newspaper report published in “Lokmat” dated 05.02.2025 suggesting that the respondents had decided to construct a flyover, and reiterates that if the track is to be shifted away, the question of constructing a flyover at the existing location does not arise. It is in this background that the petitioner seeks directions to cancel the project and to restrain issuance of any fresh e-tender. Notwithstanding such contention, the petitioner states that a fresh tender notice (No.44 dated 14.02.2025) came to be issued prior to filing of the present petition.

5. The learned advocate for the petitioner argued that the petition raises a genuine public cause because the proposed project would cause serious disadvantages and inconvenience to the residents at large, and would entail expenditure of crores on a structure that will become wasteful once the tracks are shifted and LC No.17 is eliminated. He submitted that the Railway Department itself had cancelled/decided not to proceed with construction of a ROB/RUB at the existing LC because of the impending track shift, and therefore the PWD could not have proceeded with tendering. He further submitted that the proposed flyover/ROB would affect several public institutions and offices located

{6}

in the vicinity, including governmental offices (such as Sub-Registrar, police station, city survey office, treasury office), educational institutions, public hospital, government rest house, Panchayat Samiti building, and shops of traders. He also highlighted that a statue of Dr. Babasaheb Ambedkar exists at/near the site and is visited by followers to pay tributes, and that it is likely to be affected. It was submitted that multiple representations by residents were made, yet the respondents were acting in haste to issue a revised e-tender without considering objections, and without conducting a proper survey or assessment. It was further contended that the respondents were acting *mala fide* and intentionally to serve private sugar factory owners in the vicinity; that traffic in the area is not heavy enough to warrant a flyover; that alternative roads exist for sugar factories; that other sanctioned works (such as improvement of a minor bridge at NH 361F at Taluka Sonpeth, District Parbhani) would address traffic, rendering the proposed flyover unnecessary; and that the respondents' report allegedly called for by the Hon'ble Chief Minister was either not properly prepared or not based on any survey. The petitioner's advocate thus prayed that the tender notice dated 14.02.2025 be set aside and the respondents be directed not to proceed with the construction.

6. Per contra, the learned Government Pleader appearing for

{7}

respondent Nos.3 to 9 opposed the petition. At the threshold, it was argued that the petition is not a *bona fide* public interest litigation, but a private interest litigation, since the petitioner has properties adjacent to the proposed overbridge and the petitioner's personal interest was verified through information obtained from the Chief Officer of Municipal Council, Gangakhed. It was submitted that tenants of the petitioner's shops, which are located behind/near the proposed overbridge, have submitted multiple representations opposing the project due to apprehended adverse impact on business, and therefore the petition is motivated. On merits, it was submitted that although the Railway authorities at some stage communicated their intention to shift track alignment, no definite time frame exists for such shifting; the overbridge is conceived not only as a response to railway gate closures but as an integrated connectivity solution, as it connects National Highway No.361F and a State Highway (as submitted, State Highway No.234), and is located in the heart of Gangakhed city, which suffers persistent and severe traffic congestion. It was submitted that NH 361F connects several important routes and that the State Highway serves a significant portion of Gangakhed's surrounding area consisting of approximately 60–70 villages, MIDC, and nearby sugar factories, and that repeated railway gate closures and congested city roads cause delay and hardship, including for students and emergency movement. It

was argued that local residents and an “overbridge execution committee” have also made representations seeking expeditious completion due to chronic congestion. The Government Pleader emphasized that infrastructure development is a long-term public solution that improves connectivity, reduces congestion, improves road safety, reduces idling and emissions, and supports future urban expansion. It was submitted that judicial interference would impede a duly sanctioned public project, and that the petitioner’s assumption that the bridge would become redundant is speculative because the Railway has not provided a definite schedule for shifting; even otherwise, the overbridge is designed to bypass city congestion and connect highway traffic so as to prevent vehicles travelling outside Gangakhed from entering congested city roads. It was further stated that pursuant to the revised tender, six bidders participated; technical bids were opened on 11 March (as stated), financial bids were opened on 27.05.2025; however, due to an interim order of the Court staying issuance of work order, the process could not be carried forward. The Government Pleader accordingly prayed for dismissal of the petition and for vacating interim orders.

7. We have heard the learned counsel appearing for the parties and perused the material placed on record.

8. At the outset, we record that the jurisdiction exercised in public interest litigation is extraordinary, equitable and discretionary. The Court's process is not meant to be invoked for ventilating personal or commercial grievances in the guise of public interest. The Supreme Court has consistently cautioned that "personal interest cannot be enforced in the garb of a public interest litigation", and that PIL cannot be used to satisfy personal grudge, enmity, or oblique motives. The Supreme Court has also revisited and emphasized the need to preserve the "purity and sanctity" of PIL jurisdiction and to discourage petitions filed for extraneous considerations. In the present matter, the Government Pleader has raised a serious objection regarding the petitioner's locus and *bona fides*, contending that the petitioner's property abuts the project location and that the petition is propelled by the petitioner's and his tenants' apprehensions of business inconvenience. In a case of this nature, where the challenge is directed to an infrastructure project and a tender process, the Court must be slow to proceed on mere assertions of public interest if the underlying dispute appears to be substantially driven by private inconvenience. However, having regard to the breadth of arguments addressed and the public character claimed, we have also examined the petition on merits, since a dismissal solely on locus would not fully address the controversy

raised.

9. The central plank of the petitioner's case is that because the Railway Department has indicated an intention to shift track alignment 2–3 kilometres away and eliminate LC No.17, construction of a flyover/ROB at the current location is unnecessary, wasteful, and therefore arbitrary. The petitioner relies primarily on the Railway communication dated 25.07.2024 and subsequent newspaper reports, and contends that the State authorities acted unlawfully in proceeding with tendering. We find that this approach suffers from multiple legal and factual infirmities.

10. Firstly, the record as argued by the State indicates that the proposed overbridge is not a standalone structure conceived merely to cross an existing level crossing; rather, it is intended as a connectivity and decongestion measure linking the State Highway with the National Highway, enabling through-traffic to bypass internal city roads. The State has demonstrated, by reference to the project layout/map, that the flyover alignment is planned to channel external vehicular traffic away from the congested core of Gangakhed. This is a classic infrastructure planning objective: separation of through-traffic from local traffic, improving level of service, reducing conflict points, and enhancing safety. The petitioner's argument, in contrast, treats the

overbridge as a structure justified only by railway gate closures, and assumes that elimination of a level crossing *ipso facto* extinguishes the public need for grade separation and bypass connectivity. That assumption is, on its face, incomplete. The material before us indicates multiple inputs relied upon by the administration-traffic congestion within the city, the highway-to-highway connectivity, repeated delays, and public representations seeking expeditious work. In judicial review, the Court does not substitute its own view on whether an infrastructure option is the “best” or whether an alternative would be preferable; the Court examines whether the decision-making process is vitiated by illegality, irrationality, mala fides, or manifest arbitrariness.

11. Secondly, the petitioner’s case rests heavily on the proposition that shifting of the railway track is imminent and definite, and that the overbridge will become redundant. Even assuming the Railway has expressed an intention to revise alignment, the respondents have specifically contended that no definite time frame has been communicated for execution of the track shifting. In large rail infrastructure projects, alignment revisions, land acquisition, clearances, and execution schedules are complex and often evolve. Courts cannot restrain a public infrastructure project merely on the basis of a speculative future development, particularly when the public authority

demonstrates a present and continuing necessity. The Hon'ble Supreme Court, in the context of large public projects, has emphasized that choices among options and the balancing of competing factors are for the Government to decide, and judicial intervention in such policy-laden determinations is limited.

12. Thirdly, we find that the petitioner's allegation of *mala fides*, namely that the project is being pushed to please sugar factory owners, is wholly unsubstantiated. *Mala fides* and bias are serious allegations; they cannot rest on conjecture or insinuation. Beyond a vague assertion, no tangible material is placed to show that the tender conditions, alignment, or decision-making were tailored to benefit any private entity. In absence of cogent pleadings and material particulars, the Court cannot impute improper motives to policy and executive decisions, especially in matters of public infrastructure.

13. Fourthly, the reliefs sought also attack the tender process and seek quashing of the e-tender notice. The Hon'ble Supreme Court has repeatedly held that judicial review in tender/contractual matters is limited; the Court scrutinizes the decision-making process, not the merits of the decision itself, and intervenes only where arbitrariness, *mala fides*, irrationality, or bias is demonstrated. The Supreme Court has further cautioned that interference can delay projects and escalate

costs, potentially causing greater public loss than any perceived benefit.

14. Similarly, the Supreme Court has noted that judicial review is intended to prevent arbitrariness, irrationality, unreasonableness, bias and *mala fides*, and not to second-guess administrative choices in procurement and project execution. Applying these principles, we find no material showing that tender notice No.44 dated 14 February 2025 is vitiated by any illegality in conditions, any exclusionary tailoring, any demonstrated favouritism, or any procedural impropriety of such magnitude as to attract writ interference. The petitioner's argument essentially invites this Court to decide that the project itself should not exist; that is not a tender-law infirmity but a challenge to policy and planning. This brings us to the broader governing principle. Development of infrastructure such as roads, flyovers, bridges, bypasses, is quintessentially within the domain of executive policy, planning expertise, budgetary prioritisation, and administrative discretion.

15. The Hon'ble Supreme Court has consistently observed that in policy matters, courts generally should not interfere, and decisions involving economic or administrative policy are "best left" to the Government unless shown to be contrary to law or constitutionally infirm. The touchstone for interference is not whether some individuals will suffer inconvenience, or whether another configuration is arguably

more suitable; the touchstone is whether the decision is illegal, irrational, *mala fide*, or manifestly arbitrary in the Wednesbury sense, or violates constitutional guarantees. The Court's role is supervisory, not managerial. In infrastructure decisions, there will almost always be some affected interests, including property impacts, business disruptions during construction, relocation of utilities, and temporary inconvenience. Those impacts, while real, do not automatically render the project unlawful; they are ordinarily addressed through statutory mechanisms (land acquisition, rehabilitation, traffic management, environmental and municipal permissions). Public interest jurisdiction cannot become a parallel forum to re-plan a city's transport network.

16. We have also considered the petitioner's reliance on representations made to the Hon'ble Chief Minister and by residents. The existence of representations opposing a project does not, by itself, prove arbitrariness. Equally, the State has demonstrated that there are representations supporting expeditious completion due to chronic congestion. In a democratic administrative set-up, the executive considers competing representations and makes a decision. Unless that decision is shown to be perverse or tainted by illegality, courts do not displace it. The petitioner also alleges absence of survey and process prior to tender. However, beyond assertion, no record is produced to

demonstrate that the sanction and tender were issued without any technical basis or approvals, or contrary to any mandatory statutory requirement. In tender matters, the burden lies heavily on the challenger to show a clear legal infirmity; mere dissatisfaction with the policy choice is insufficient. We are, therefore, not persuaded that the petitioner has made out a case for judicial interdiction either on the ground of redundancy due to future track shifting or on the ground of any proven illegality in tendering.

17. On the contrary, the State's affidavit and submissions disclose a rational nexus between the project and legitimate public purposes, namely decongestion, connectivity between important corridors, safety, and urban mobility. The petitioner's claim that the bridge will necessarily become "waste" after track shifting is, at best, a prediction. Even assuming future track relocation, the overbridge's utility as a grade-separated corridor connecting key roads and bypassing congested areas may well persist, as the State has explained. These are matters of transport planning and long-term infrastructure strategy, and not of judicial determination in writ jurisdiction.

18. In view of the above discussion, we hold that the petition fails both on the threshold requirements of *bona fide* public interest (having regard to the serious objection of personal interest and the surrounding

circumstances) and, in any event, on merits, as no illegality, arbitrariness, *mala fides*, or constitutional infirmity is established warranting interference with a policy decision or an ongoing tender process. The jurisprudence of the Hon'ble Supreme Court on preventing abuse of PIL jurisdiction and on judicial restraint in matters of policy and tenders reinforces our conclusion. Accordingly, the Public Interest Litigation stands dismissed. There shall be no order as to costs.

19. Any interim order passed earlier staying the issuance of the work order and/or further steps pursuant to the tender stands vacated.

20. In view of the disposal of the Public Interest Litigation, the Intervention Application also stands disposed of.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE