

CWP-PIL-113-2021

Sr. No.223

CWP-PIL-113-2021

Court on its own motion
Vs.
Union of India and another

**Along with
CWP-PIL-26-2018**

Present:- Mr. Amit Jhanji, Sr. Advocate (Amicus Curiae), with
Mr. Shashank Shekhar Sharma, Advocate.

Mr. Satya Pal Jain, Addl. Solicitor General of India, with
Mr. Dheeraj Jain, Sr. Panel Counsel,
For the respondent-UOI.

Mr. Sanjiv Ghai, Advocate and
Mr. Parminder S. Kaul, Advocate,
For the respondent-MC, Chandigarh.

Mr. Parminder Singh Kanwar, Addl. Standing Counsel
For the respondent-U.T., Chandigarh.

Mr. Arjun Sheoran, DAG, Punjab.
Ms. Mamta Singla Talwar, DAG, Haryana.

Mr. Jhanji has pointed out that initial stand of U.T., Chandigarh *qua* point no.1, raised regarding public transport system in the order dated 25.06.2021, referred to in the affidavit dated 27.04.2022 is that preparation of the comprehensive mobility plan for Chandigarh Tri-City Complex has been prepared by engaging M/s RITES Ltd., RITES Bhawan, Sector-29, Gurgaon. Report was to be submitted within a period of 06 months. Thereafter, affidavit dated 25.05.2022 filed by the Home Secretary would show that the report was still awaited from RITES. The 3rd affidavit dated 09.05.2023 of Nitin Kumar Yadav, Secretary Transport, Chandigarh Administration would also show that report of comprehensive Mobility Plan for Chandigarh Tri-City submitted by M/s RITES Ltd. was sent to the Ministry of Housing and

Urban Affairs (MoHUA), Govt.of India, New Delhi for approval of the Ministry, vide Transport Department's letter dated 09.05.2023. Photocopy of communication dated 09.05.2023 addressed to the Secretary, Government of India, Ministry of Housing and Urban Affairs, New Delhi has also been placed on record which is taken on record as Annexure 'A'. In principle, the report had been approved by the Government of Punjab, Haryana, Civil Aviation Authorities, Air Force Authorities, Railway Authorities and all stake holders and approval of the Ministry, Union of India was thus sought. Similarly, photocopy of letter dated 09.06.2023 from Ministry of Housing and Urban Affairs which is taken on record as Annexure 'B'. The same would show that UT has been informed that said subject is a State matter and falls under the jurisdiction of State Government/UTs and approval of the Union of India is not required. Thus the Comprehensive Mobility Plan for Chandigarh Tri-city Complex has been returned to the Chandigarh Administration. Office to tag the said Annexures 'A' and 'B' at appropriate place.

Mr. Jhanji, Senior Advocate has also taken us to the Chandigarh Master Plan 2031 duly notified on 23.04.2015 and to submit that seven years earlier, the apprehension of large volume of inter-city traffic had been raised that Chandigarh's road network is under intense pressure due to increase in population, explosive growth in the number of private vehicles which has increased the number of personalized vehicles and the limitation of road space. The emergence of towns around Chandigarh like Mullanpur, Kharar, Anandpur Sahib, Baddi on the west and towns of Manimajra, and Panchkula, Panchkula extension, Pinjore Kalka, Chandimandir cantonment in Haryana and the towns of Parwanoo, in the State of Himachal Pradesh added to approximately 1,52,650 vehicles entering or leaving Chandigarh on 24 hour basis. It was further noticed that further recommendations have been made for

creation of bypass around Chandigarh to prevent unwanted traffic so that traffic which is destined beyond Chandigarh should be allowed to bypass the town and suitable bypasses are constructed so that extreme pressure which had been put to the detriment of city environment and the quality of life is put in place. The responsibility of the constructing roads had also thus been put on the adjoining respective states which would be both Haryana and Punjab. The factum of additional road connectivity to Panchkula, Mullanpur township etc. has also been duly proposed in the Said Master Plan.

In such circumstances, we are of the considered opinion that both the States of Punjab and Haryana need to be impleaded as respondents through their respective Chief Secretaries. Affidavit dated 25.05.2022 also talks about various bottlenecks of other roads like PR-4 and PR-5 and Raipur Kalan, Industrial area Phase-III, Chandigarh to Panchkula industrial area and the shortest route to international airport through village Jagatpura and construction of the new alternative routes. We are also further informed that similar connected litigations are also pending before this Court regarding disputes pertaining to the Chandigarh International Airport and providing shortest route and also litigation pertaining to the fly over which is to be made over the Tribune Chowk.

In such circumstances, it would be appropriate if all the matters bearing CWP-PIL-60-2019 and CWP-23249-2017 are taken up before a common Bench. Office shall put up the papers before Hon'ble the Acting Chief Justice for passing appropriate orders.

Similarly as to point (a) and (b), in the order dated 25.06.2021 regarding Rajendra Park and blocking of the road of the Uttar Marg which facilitates ready movement, it is pointed out in the master plan, the Rajendra Park is being used as helipad and has been declared as out of bound area for

the city residents. This park has been recommended for the heritage status as per the master plan 2031 and needs to be completed as per the original plan in consultation with the Chandigarh Heritage Conservation Committee. The proposal has been made for shifting of helipad to an appropriate site and removal of security tents and barbed wire fencing along the Uttar Marg and defining the edge of the park towards village Naya Gaon which is littered with garbage and presents a very shabby appearance. The conversion of Rajendra Park as proposed by the reference order has been refuted by the Chief Engineer, Municipal Corporation dated 11.05.2022 that it is a policy matter and dumping of the rubbish by the residents of Khuda Ali Sher is removed from time to time by engaging part time labour. In the affidavit dated 25.05.2022, it has been averred that committee has been constituted to examine the issue of opening/closing of the road opposite Punjab Engineering College and spot inspection report dated 07.05.2022 and the movement of the protected persons to Rajindra Park helipad has been averred that report of recommending the road to be kept closed has also been appended as Annexure A-8.

We have been gone through the said report and we are of the considered opinion that report would require reconsideration. Apparently the road towards residence of Haryana Chief Minister is open but the road in front of Punjab Chief Minister remains closed in spite of the fact that there is a 100 feet green belt between the road and the residence of the Chief Minister and thereafter a slow carriage way road. The road was closed during the time of terrorism in the 1980s and things have undergone a sea change since then. We do not see any valid reason as such that the citizens of this town can be put to any inconveniences on account of the alleged protected persons, as the security can be beefed up accordingly of the said persons. If the same road in

front of the Haryana Chief Minister's house can function then without any valid reason why the road cannot be opened thorough and through for the benefit of the residents. The observations of the Apex Court time and again is that public roads cannot be closed whether by the general public, by holding demonstrations or as in the present case, by the Administration for all times to come for reasons which apparently are not justified. In such circumstances, we also direct that issue be reconsidered by the next date of hearing.

Let a comprehensive/updated affidavit be also filed by the UT regarding all the issues which are required to be reconsidered.

Adjourned to 21.12.2023.

Photocopy of this order be placed on the connected case files.

(G.S. SANDHAWALIA)
JUDGE

(LAPITA BANERJI)
JUDGE

November 16, 2023
vandana