

(203) CWP-PIL-9-2023 (O&M) and CWP-27621-23013 (O&M)

Vinod Dhatteerwal and others Vs. Union of India and others

Present : Mr. Aashish Chopra, Senior Advocate, with
Ms. Rupa Pathania, Advocate, and
Mr. Varun Aryan Sharma, Advocate,
for the petitioners in CWP-PIL-9-2023.

Mr. R.S. Khosla, Senior Advocate, with
Mr. Yogender Verma, Advocate,
for the petitioner in CWP-27621-2013.

Mr. Dheeraj Jain, Senior Panel Counsel, UOI, and
Mr. Brijeshwar Singh Kanwar, Senior Panel Counsel, UOI.

Mr. Prashant Garg, Registrar, IIT Roorkee, alongwith
Dr. Ram Sateesh Pasupuleti, Associate Professor
(Through Video Conferencing).

Mr. Gaurav Chopra, Senior Advocate, with
Mr. Rajeev Anand, Advocate, for respondent No.9.

Mr. Amit Jhanji, Sr. Standing Counsel, UT Chandigarh, with
Mr. Jaivir S. Chandail, Addl. Standing Counsel, UT Chandigarh.

Mr. Deepak Balyan, Addl. Advocate General, Haryana.

Mr. Saurav Khurana, Addl. Advocate General, Punjab.

Mr. S.S. Tiwana, Secretary,
Bar Association, P&H High Court Bar Association.

1. The status report on behalf of the Department of Architecture & Planning and Department of Civil Engineering, IIT Roorkee, by way of affidavit of Shri Prashant Garg, Registrar, IIT Roorkee, has been filed. The said official alongwith other concerned officials, including Dr. Ram Sateesh Pasupuleti, Associate Professor, Department of Architecture and Planning, IIT Roorkee, is also available through video conferencing.

2. In the aforesaid affidavit as such, it is averred that the progress report dated 27.05.2024 (Annexure R-10/3) has been submitted to the Chief Engineer, UT Chandigarh, which would go on to show that the site visit has been completed and the buildings have been visually evaluated and

preliminary site visit report has been given. Another site visit to evaluate the NDT (non-Destructive testing) scope of work and to give instructions has been done. The NDT activity has been completed for three buildings and the report is under preparation. It has been further submitted that the evaluation draft report for the already tested buildings is to be completed by 15.07.2024 and the department is scheduling doing the NDT activity for the remaining buildings in the month of June, 2024. Thus, for the remainder building, the evaluation report has to be completed by the end of July, 2024. The said facts have also been averred in paragraph 13 and 14. The final report has to be submitted by IIT Roorkee based upon the comments received from the Chief Engineer, UT Chandigarh, on the draft reports.

3. It has been averred in paragraph 6 of the affidavit that a drone survey is required to be undertaken to acquire the GIS related data, which is a crucial input in the Heritage Impact Assessment (HIA) report that infers the view shed analysis. The clearance to fly drones in the site due to red zone implications is stated to have not been received and an application dated 25.05.2024 (Annexure R-10/1A) has been submitted to the Skill Development & Information Technology Section, Ministry of Civil Aviation, New Delhi. The delay in obtaining the required clearance for the drone survey could increase the duration of the project. The proposal as such is given to do the operation on 01.06.2024 and 02.06.2024 from 5.00 AM to 9.00 AM. A request by way of letter dated 25.05.2024 (Annexure R-10/2) has been made to the Chief Engineer, U.T. Chandigarh, to expedite the permission process at the earliest, and also that officials of this Court need to consider the future aspects of time frame as such. A perusal of the said letter would go on to show that

there is a site visit plan in June, 2024 and therefore, a request has been made to extend the project duration by another three weeks to account for the time lost, as project start date was counted from 09.04.2024, and its duration is six months.

4. Mr. Khosla, learned senior counsel, appearing on behalf of the High Court Bar Association, has placed on record a communication from the Executive Engineer, C.P. Division No.6, Chandigarh, addressed to the learned Senior Standing Counsel, Chandigarh Administration, regarding the drone survey to be done on 01.06.2024 and 02.06.2024 and the assurance that the Directorate General of Civil Aviation would expedite the process.

5. Affidavit of Shri Rajeev Verma, Adviser to the Administrator, UT Chandigarh, which is in continuation of the earlier affidavit, has also been filed, stating therein that regarding the parking space behind MLA Hostel, Sector 4, Chandigarh, the tender for the work of creating parking space will be floated by 07.06.2024, and sincere efforts will be made to operationalise the parking space tentatively by 30.09.2024. It has also been averred that as soon as the Heritage Impact Assessment is concluded and the report is submitted by IIT Roorkee, further steps will be taken by the Chandigarh Administration on priority.

6. Apparently, as per the letter dated 06.05.2024, annexed as Annexure B with the aforesaid affidavit, the drone survey was to be done on 18.05.2024 and 19.05.2024, but as noticed above, it has been postponed. The permission has already been granted by this Court vide communication dated 09.05.2024 (Annexure C) to undertake the drone survey, but it was for the earlier dates. The Senior Superintendent of Police, Security & Traffic, UT

Chandigarh, as such, vide letter dated 17.05.2024 (Annexure E) has expressed her apprehensions and opined for obtaining requisite permission by login through the “Digital Sky Platform” of the Ministry of Civil Aviation, Govt. of India, on account of the fact that premises as such are in the red zone. We are informed that the red zone category is due to the flying zone area of Rajendra Park being used by the respective Chief Ministers and therefore, for the dates as such which are to be slated, as proposed, there should be “No Flying Zone”.

7. In such circumstances, we direct the Senior Superintendent of Police, Chandigarh, to issue necessary instructions to all concerned, so that necessary permission is granted and during those two days, the area would remain out of bounds for all low flying crafts in the nature of Helicopters. We also direct the concerned Ministry of the Union of India as such, as noticed above, to grant necessary permission for 08.06.2024 and 09.06.2024, within a period of one week, so that steps can be taken to do the proposed mapping.

8. Keeping in view the fact that the project is hanging fire since long, we expect that the officials of IIT Roorkee also to strictly adhere to the time frame and reduce it wherever it is possible.

9. Accordingly, the proceedings are deferred for 23.07.2024.

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

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

May 28, 2024
ndj