

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P.No.37357 OF 2021

Between:

Paladi Anjaneyulu

... Petitioner

And

The Union of India & others

... Respondents

JUDGMENT PRONOUNCED ON: 18.03.2024

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers : **Yes**
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : **Yes**
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : **Yes**
see the fair copy of the Judgment?

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P.No.37357 OF 2021****% 18.03.2024****Between:**

Paladi Anjaneyulu

... Petitioner**And**

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... Respondents

< Gist:

> Head Note:

! Counsel for the Petitioner

: Mr.V.Raghunath,

^ Counsel for Respondents: Mr.L.Padma Rao,
Ld.Standing Counsel
for R2 & R4Ld. G.P. for Roads &
Buildings for R3.

? Cases Referred:

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HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P. No. 37357 of 2021****ORDER:**

Heard the Learned counsel Mr.V.Raghunath, learned counsel appearing on behalf of the Petitioner, Mr. Lakkaraju Padma Rao, learned Standing Counsel, appearing on behalf of the Respondents No.2 and 4 and the Learned Government Pleader for Roads & Buildings on behalf of Respondent No. 3.

PRAYER:

2. **The petitioner approached this Court seeking prayer as under:**

"To issue an appropriate Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declare the action of the Respondent No.3 herein in Draining/Leaving sewage water into Agriculture land of the petitioner herein lands in SY.No.9, Admeasuring Ac.7.00, situated Kadthal Village and Mandal, Ranga Reddy District particularly Spot No.43/417 along the stretch for Hyderabad to Dindi Project as being illegal arbitrary and violative of articles 14, 21 and 300(A) of the constitution of India and consequently direct the Respondents to pay to the petitioner a sum of rupees

20,00,000/ towards damages for destroying the crop due to drainage of sewage into the land of the petitioner."

3. PERUSED THE RECORD :

i) Counter affidavit filed by Respondent No.3, the relevant portion of para 6 and relevant portion of para 7 reads as under :

"6. ...It is to inform that the stretch of Hyderabad-Dindi section from Km.23.00 to Km.108.800 of NH 765 has been entrusted to NHAI vide Gazette S.O.No.2572 (E) Dated 11.08.2017 and accordingly the stretch and corresponding documents of Hyderabad-Dindi Section from Km 23/0 to Km 108/800 were handed over to the PIU-NHAI, Hyderabad on 16/3/2018.

I submit that as per the land owners request to continue the drain from 43+417 to dispose the drain discharge away from the land owners land even though there is no habitation, the Ministry of Road Transport & Highways, Government of India has sanctioned the work "Rehabilitation and up gradation of NH-765 from km.23/0 to 108/800 (Hyderabad near Tukuguda to Dindi Section) two lane with paved shoulders under NHDP-IV on EPC Basic Sub Work-Construction of RCC and Pipe drain for disposal of drain discharge to the nearest cross drainage structure located at Km.42.330

along the National Highway-765 on RHS under contingency head of sanctioned work vide Lr.No. RW/HYD/HB NHDP/13-14/16/Cor/172 dated 06.06.2019 and work is completed in the supervision of NHAJ consultancy team (As road stretch is transferred to NHAJ).. National Highway drainage is only meant for discharge of excess rainwater and storm water not for sewage water.

7.It is clear that the stretch from Km 23/0 to Km 108/800 (Hyderabad-Dinndi) of NH 765 is falls in the Jurisdiction of NHAJ PD Hyderabad and disconnection of illegal drain connections subject not pertains to us."

ii. **The Counter affidavit filed by Respondent No.2 and 4, in particular, Paras 8 and 9, read as under :**

"8. In reply to para 4 of the affidavit, I respectfully submit that, as part of project facility, covered lined drain is constructed both sides along the built-up location from Km. 43+202 to Km. 43+408, Km. 43+426 to Km.44+900 on LHS and from Km. 43+293 to Km.43+408, Km.43+426 to Km.44+900 on RHS to drain off the road surface storm water and the water is discharging in the minor bridge constructed at Km.43+417. It is the common practice to discharge the storm water in the nearest cross drainage structure. Accordingly, the storm water is discharging at minor bridge Km.43+417 which

existed from long time, which is more than 20 years. During the process of widening the road another bridge on LHS has been constructed to cater 4-lane roads in the year of 2016. Earlier few houses connected their sewers to the lined drain and it has been stopped by blocking the way. As and when it is observed, it is being closed. Further, the minor bridge exists from long time and during the widening of road, the bridge has been widened to enter 4-lane. Earlier few houses are connected their sewage to the lined drain.

9. In reply to para 5 to 8, I respectfully submit that, whenever the representations are received an action has been taken to block the discharge of domestic sewage. It is common practice along the Highway to discharge the storm water over the road surface in the nearest crops drainage structure. Accordingly, the disposal is being done in the minor bridge at Km.43+417. Perhaps, petitioner is doing cultivation in the land which is falling in the way of stream flowing up to the tank existing 800 meters away from the bridge that is why the land is being submerged. Further, the covered drain has been constructed to drain the storm water off road surface and made arrangements to discharge in the nearest street i.e. at Km. 43+417. As and when it is observed the illegal waste of domestic sewage, it is being stopped. In-fact the said location is coming on the way of the stream flowing where the stream reaches the existing tank 800 mtrs which is away from the minor bridge from

long time. As such the question of leaving sewage water in to the petitioners agricultural land does not arise and seeking compensation against the same is unjust and illegal. Moreover writ petition in the facts and circumstances which involves disputed questions of facts is not maintainable and the petitioner will have to approach the appropriate Civil Court or any forum to claim the compensation for the alleged financial loss."

iii) The letter No.DEE/R&B/NH/KKY/2023-24/RTI/11, dated 04.10.2023 of the Deputy Executive Engineer (R&B) National Highways, Sub-Division, Kalwakurthy, addressed to the Petitioner reads as under:

"The information under RTI ACT Application 2005 Sought by you is as Follows:

Project Name-Construction of RCC and Pipe drain for disposal of drain discharge at alternate government land located at 80m away from NH 765 on RHS at Km 42.670".

Point 1:- Copy enclosed.

Point 2. Work completed & Total cost incurred/spent till date is 1,27,91,435.00

Point 3:- As some finishing works completed pending bill amount Rs 4281135.00 released

Point 4 &5:-Work completed.

As part of project facility covered lined drain is constructed both sides along the built-up

location of Kadthal village to drain off the road surface storm water and outlet point is the nearest cross drainage structure which was existing long back (more than 20 years back) as a natural stream with natural slope during rainy seasons. As and when road is developed cross drainage structure at that natural stream only will be developed to meets requirements.

In this case some part of Kadthal village right side drain adjacent catchment area natural slopes is towards minor bridge located at Km 43+417 R/S. Hence as common practice to discharge some part the storm water(as its natural way) is discharging in the minor bridge constructed at Km. 43+417. Earlier few houses are connected their sewers to the lined drain and it has been stopped by blocking the way. As and when it is observed, it is being closed.

It is to Inform that the stretch of Hyderabad-Dindi section from Km.23.00 to Km.108.800 of NH 765 has been entrusted to NHAI vide Gazette S.O.No.2572 (E) Dated 11.08.2017 and accordingly the stretch and corresponding documents of Hyderabad-Dindi Section from Km 23/0 to Km 108/800 were handed over to the PIU-NHAI, Hyderabad on 16/3/2018.

As per the land owners request to continue the drain from 43+417 to dispose the drain discharge away from the land owners land even though there is no

habitation, the Ministry of Road Transport & Highways, Government of India has sanctioned the work "Rehabilitation and up gradation of NH-765 from km.23/0 to 108/800(Hyderabad near Tukkguda to Dindi Section) two lane with paved shoulders under NHDP-IV on EPC Basic Sub work-Construction of RCC and Pipe drain for disposal of drain discharge to the nearest cross drainage structure located at Km.42.330 along the National Highway-765 on RHS under contingency head of sanctioned work vide Lr. No.RW/HYD/HB NHDP/13-14/16/Cor/172 dated 06.06.2019 and work is completed in the supervision of NHAI consultancy team (As road stretch is transferred to NHAI). National Highway drainage is only meant for discharge of excess rainwater and storm water not for sewage water.

As the stretch from Km 23/0 to Km 108/800 (Hyderabad-Dinndi) of NH 765 is falls in the Jurisdiction of NHAI PD Hyderabad and disconnection of Illegal drain connections to be done by NHAI with the coordination of local body will stop murky water into drain."

4. **The case of the Petitioner, in brief, as per the averments made in the affidavit filed in support of the present writ petition is as follows :**

It is the specific case of the Petitioner that the Petitioner is the owner and possessor of agriculture land in Sy.No.9, admeasuring Ac.7.00 situated at Kadthal Village & Mandal, Ranga Reddy District and the said land is a patta land and the Petitioner is personally cultivating the subject land. The subject land is the only source of livelihood for Petitioner and Petitioner's family. While things stood thus, the Respondents herein had taken up laying of National Highway No.765, at a point along the stretch from Hyderabad to Dindi the spot No.43/417 and the Respondents have laid canal alongside the Highway to drain rain water. It is further the case of the Petitioner that the canal abruptly ends at Petitioner's land as a consequence of which the water is being drained into Petitioner's land submerging Petitioner's crop and subjecting Petitioner to untold misery in terms of loss of crop and mental agony apart from financial loss and further the local inhabitants have given connection from their household toilets to the canal and the canal is being used more for drainage sewage water than the rain water. It is further the case of the Petitioner that the Petitioner addressed several representations to the Respondents vide letters dated

10.02.2016, 03.06.2021, 04.06.2021, 18.06.2021,
14.09.2021, 12.11.2021, 28.11.2021, 29.11.2021
innumerable times seeking immediate action against drainage
of sewage water and Petitioner also filed an application under
RTI Act and received a reply that drainage canal is meant for
rain water only. Petitioner specifically contends that due to the
conscious negligence by the Respondents, Petitioner incurred
financial loss to a tune of Rs.20 lakhs which if not
compensated to the Petitioner, the Petitioner would suffer
substantial loss. The Gram Panchayat of Kadthal also a passed
a resolution against the National Highway Authority to take
immediate steps to stop the sewage or drain water vide its
Resolution dated 14.07.2015, but however, no action has been
initiated in this regard as on date. Aggrieved by the same the
Petitioner filed the present writ petition.

DISCUSSION AND CONCLUSION :

5. **Proceedings dated 27.02.2018 of the Regional
Officer, Government of India, addressed to the
Engineer-In-Chief, R&B, NH, CRF & Building, Telangana,
Erram Manzil, Hyderabad, which refers to upgradation
of NH-765 from Kms. 23.00 to Km 108.800 (Hyderabad**

– Dindi) in the State of Telangana through EPC basis and further refers to discharge of untreated sewage at Minor Bridge at KM – 43 + 417 reads as under :

“Please refer to E-in-C(NH), TS letter cited at 2nd reference submitting therewith alternate proposal for Rs.90.20 lakhs for mitigation of untreated sewage discharge in land adjacent to NH 765 on RHS at spot Km 43/417 and subsequent letter cited at 1st reference, submitting therewith documents related to Pahani copies of lands abutting to the constructed bridge on D/s side and Map of the village where bridge is constructed in connection to approval of alternate proposal for discharge of untreated sewage at minor bridge 43+417 in Government land.

2. The proposal has been examined in light of above reference letter(s) and the following observations are made:

i) The existing minor bridge (5 vents of 3.5m) in Kandhal village is located at Km 43 + 417 which was earlier 12m wide and later widened to 27m as it the stretch falls in 4 lane section of Kadthal village from 43+200 to Km 44+900. As per approved plan and profile, the surface runoff of the pavement from Km 43+200 to Km 43+400 (Hyderabad side) and from Km 43+420 to Km 43+760 (Dindi side) had been planned to let out at Km 43+417 where minor bridge is situated.

However, Shri. Sreenivas paladi R/o Kadthal, who is an adjacent land owner of Sy. No.9 at Km 43 + 417 on RHS, has given representation to Secretary RT&H stating that his lands along with other nearby agricultural landholders/residential houses are being affected due to discharge of untreated sewage near the outfall of minor bridges at Km 43 + 417.

ii) The Ministry had also written a letter to Pr.Secy (T, R&B) vide letter No.RW/NH-39013/2/2016-NHDP-IVA dated 06.07.2016, to direct the local panchayat department to disconnect all unauthorised household drains in kadthal village and also requested State PWD to obtain necessary clarification from concern revenue department regarding the land use pattern and reasons for its conversion from erstwhile course of natural drain to built up area/agricultural lands/plots on either side of Minor bridge location at Km 43+417.

iii) The Amangal Tashildar vide letter no. A/2485/16 dated 08.10.2016, has confirmed that Sy.No.9 is a patta land, converted to commercial land. Further, on account of existing temple at Km 42+879, the villagers are also obstructing to allow discharge at another existing culvert location i.e. at Km 42+879 which is ahead of claimant on Hyderabad side. Accordingly, The Amangal Tashildar has reported the only suitable alternate location is at Sy. 926 is government located at 80m away from NH on RHS at Km.42.670 land and unobjectionable. The gram

panchayat has also given their consent for disposal of drain water at this location. Despite disconnecting all unauthorised household drains in kadthal village, the problem still persisted as the local are again discharging their house hold sewerages back into road side drains.

4. This State PWD has submitted that the work is already completed and the contractor has demobilized all his plant and machinery and instant work is proposed to be taken up as a separate work and requested to meet the expenditure to the tune of Rs. 90.20 lakhs from the contingency amount of Rs. 7.58 Cr.

5. In view of the above, as there are several objections received from locals of kadthal village for disposal of drain water near outfall at existing bridge/culvert locations i.e. Km 42 +879 (pipe culvert near temple) & Km 43+417 (near bridge location) and since it is the obligation of NH authority for proper disposal of drain discharge, in-principle approval has been granted for disposal of the drain discharge at only alternate government land as proposed by State (R&B), located at 80m away from NH on RHS at Km 42.670 (having total length of 840m) under contingency head of sanctioned work subject to the condition that Engineer-in-Chief (R&B). NH, Hyderabad has to ensure the technical requirements of alternate proposal for complete redressal of the problem or otherwise any infructuous expenditure arising on account of this, will be recovered

from agency charges payable to State(R&B), NH, Telangana.

6. Further, no revision of estimates due to rate revisions/higher tender premiums will be accepted. Any such excess expenses shall be borne by State(R&B), NH, itself."

6. Taking into consideration the contents of the letter dated 27.02.2018 in particular paras 2 and 5 referred to there under and extracted above and duly considering that the concerned gram panchayat had given their consent for disposal of drain water at the said location and in principal approval has also been granted for disposal of drain discharge under contingency head of sanctioned work and further that it is the obligation of NH Authority for proper disposal of drain discharge, this Court opines that the plea of the Respondent No.3 at para 6 of the counter affidavit, that the National Highway drainage is only meant for discharge of excess rain water and storm water not for sewage water is untenable and hence rejected.

7. A bare perusal of the counter affidavit filed on behalf of Respondent No.3 also indicate at para 7 that it is admitted that Respondent No.3 had laid canal to drain the rain water and the said Project Highway passes through a built up area and a lined drain was constructed to drain off road surface water along the built up area Kadthal. A bare perusal of the counter affidavit filed by the 3rd Respondent indicates at para 7 that the stretch from KM 23/0 to KM 108/800 (Hyderabad – Dinndi) of NH 765 falls in the jurisdiction of NHAI PD, Hyderabad.

8. Taking into consideration the aforesaid facts and circumstances of the case and duly considering the contents of the Proceedings dated 27.02.2018 of the Regional Officer, Government of India, addressed to the Engineer-In-Chief, R & B, NH, CRF & Building, Telangana, Erram Manzil, Hyderabad, which refers to upgradation of NH-765 from Kms. 23.00 to Km 108.800 (Hyderabad – Dinndi) in the State of Telangana through EPC basis and further refers to discharge of untreated sewage at Minor Bridge at KM – 43 + 417 in particular

at paras 2, 4 and 5 of the said proceedings dated 27.02.2018 and further duly considering the contents of the letter dated 04.10.2023 of the Deputy Executive Engineer (R & B) National Highways Sub Division, Kalwakurthy, addressed to the Petitioner herein (referred to and extracted above) which clearly indicates that the stretch from KM 23/0 to KM 108/800 (Hyderabad – Dinndi) of NH-765 falls in the jurisdiction of NHAI PD, Hyderabad and further that the disconnection of the illegal drain connections has to be done by NHAI with the co-ordination of the local body would stop murky water into drain and the contents of the counter affidavit filed by Respondent Nos.2 & 4 that NHAI constructed the drain in Khadthal Village and since it is even admitted in the letter dated 27.02.2018 that it is the obligation of the NH Authority for proper disposal of drain discharge, this Court opines that Respondent Nos.2, 3, 4 and 5 herein have the bounden duty to examine the representations of the Petitioner dated 10.02.2016, 04.06.2021, 18.06.2021, 29.11.2021, which had been acknowledged by the Respondents and

initiate appropriate action in accordance to law duly considering their own proceedings dated 27.02.2018 and the proceedings dated 04.10.2023 within a period of 2 weeks from the date of receipt of the copy of the order by giving due notice to the Petitioner and in conformity with principles of natural justice.

9. Accordingly, the writ petition is disposed of. However, there shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

SUREPALLI NANDA, J

Date: 18.03.2024

Note : L.R. Copy to be marked.
B/o. *Yvkr*