

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
HON'BLE MR. JUSTICE ARUP KUMAR GOSWAMI, CHIEF JUSTICE
&
HON'BLE MR. JUSTICE NINALA JAYASURYA

W.P.(PIL) No.240 of 2020

AND

WRIT APPEAL Nos. 401 of 2020 & 210 of 2021

(Taken up through video conferencing)

WRIT PETITION (PIL) No.240 of 2020

Yelamanchili Basaveswara Rao,
S/o.Nageswara Rao, Aged about 63 years,
D.No.59-14-15, Yelamanchili Complex,
Vijayawada, Krishna District.

.....Petitioner

Versus

Union of India, rep. by its Secretary Ministry
of Road,Transport and Highways, New Delhi
and others.

....Respondents

Counsel for the petitioner : Mr. T.V.P. Sai Vihari

Counsel for respondent No.1 : Mr. N. Harinath,
Assistant Solicitor General
of India

Counsel for respondent No.2 : Government Pleader for
Transport

Counsel for respondent Nos.3 and 4 : Mr. S. S. Varma

WRIT APPEAL No.401 of 2020

The Project Director, Project Implementation
Unit (BOT), National Highways Authority of India,
Vanamali Complex, Guru Nanak Nagar,
Vijayawada.

..... Appellant

Versus

Tammareddy Ramesh, S/o.Padma Rao,
Aged about 47 years, R/o.H.No.40-25-23,
Flat No.403, R.R. Enclave, Patamata Lanka,

Vijayawada and others.

....Respondents

Counsel for the appellant	: Mr. S. S. Varma
Counsel for respondents Nos.1 to 30	: Mr. V. S. R. Anjaneyulu
Counsel for respondent No.31	: Mr. N. Harinath, Assistant Solicitor General of India
Counsel for respondent No.32	: Government Pleader for Roads & Buildings
Counsel for respondent Nos.33 and 34	: Government Pleader for Land Acquisition

WRIT APPEAL No.210 of 2021

Yelavarthi Srinivasa Rao, S/o. Yelavarthi Ammaiah,
Aged about 61 years,R/o. H.No.40-23/2-10,
Nee Varma Apartments, Near Jyothi Mahal,
Benz Circle, Vijayawada and others.

.....Appellants

Versus

Union of India, through its Secretary,
Ministry of Road, Transport and Highways,
New Delhi and others.

....Respondents

Counsel for the appellants	: Mr. V. S. R. Anjaneyulu
Counsel for respondent No. 1	: Mr. N. Harinath, Assistant Solicitor General of India
Counsel for respondent No.2	: Government Pleader for Roads & Buildings
Counsel for respondent Nos.3 and 6	: Mr. S. S. Varma
Counsel for respondent Nos.4 & 5	: Government Pleader for Land Acquisition
Date of hearing	: 02.08.2021
Date of pronouncement	: 31.08.2021

COMMON JUDGMENT

(Per Ninala Jayasurya, J)

As the issues involved in these matters are similar in nature, the same are taken up together with the consent of all the parties and disposed of by this common judgment.

2. At the outset, it would be appropriate to set out the brief narrative of the background of the matters that eventually lead the respective parties to approach this Court.

3. To curb the traffic congestion due to heavy vehicular traffic on National Highway (hereinafter referred to as 'N.H.') Nos.16 and 65, passing through the ring road in the midst of Vijayawada city, initially a flyover popularly known as Benz circle /Benz flyover (hereinafter referred to as '1st flyover') was constructed on the eastern side for free flow of traffic from Calcutta side to Chennai side. The said flyover of a length of about Km. 2.50 meters starts at Novotel junction, ends at Screw Bridge junction and was brought into operation in the year 2020. Further, to ease the flow of traffic on the National Highway from Chennai side to Calcutta side, on the western side, another flyover (hereinafter referred to as '2nd flyover') was proposed to be constructed. The said flyover with a length of about Km.2.47 meters is parallel to the 1st flyover covering three junctions viz., Benz circle junction, Nirmala Convent junction and Ramesh Hospital junction. Vehicles from Chennai side can ply on the 2nd flyover without hindrance to local traffic at the above said junctions and the works in respect of the same are being carried at a rapid pace. Ventilating certain grievances with reference to the said flyovers, some

of the petitioners claiming to be residents of the colonies adjacent to these flyovers, filed writ petitions.

4. For the sake of convenience, the parties are referred to as they were arrayed in the respective writ petitions.

5. In writ petition No.19887 of 2019, the petitioners stating that they are the residents of various colonies situated in and around Patamata, Patamata Lanka and Yenamalakuduru of Vijayawada Municipal Corporation sought the following relief:

“It is therefore prayed that this Hon’ble Court may be pleased to issue an appropriate writ, order or direction particularly one in the nature of Writ of Mandamus

a) directing to complete the process of acquisition, vide Section 3A(1) Notification dated 28.01.2019 of National Highways Act, 1956 published in Gazette of India (extraordinary) dt.29.01.2018 within a time bound programme.

b) directing to form service road abutting “Benz Circle Flyover” on eastern side, at a width of 10 mtrs., declaring their inaction as illegal and ultra vires to the provisions of Article 14 and 21 of the Constitution of India besides being violative of the National Highways Act, 1956 and pass such other order or orders as this Hon’ble Court deems fit and proper in the circumstances of the case.”

6. In the affidavit filed in support of the writ petition, the grievance voiced *inter alia* was with regard to non-formation of a service road, though the construction of 1st flyover was nearing completion. It is their case that the service road has to be provided by the authorities which would serve the residents of

various colonies situated in and around Patamata, Patamata Lanka and Yenamalakuduru, a thickly populated area, covered by various business establishments, residential apartment complexes and also individual houses.

7. It was further asserted that respondent No.1 therein issued a Notification dated 28.01.2019 under Section 3-A(1) of National Highways Act, 1956 in Gazette of India (Extraordinary) dated 29.01.2019 having been satisfied that the lands shown in the Schedule are required for a public purpose viz., for formation of a service road at a width of 8.5 meters, but the land acquisition process was abandoned, for the reasons best known to the authorities concerned. It was further stated that though respondent No.3/District Collector, Krishna District, addressed a letter dated 23.11.2019 to respondent No.2 i.e., the Principal Secretary, Transport, Roads & Buildings Department, Government of Andhra Pradesh, explaining the essentiality of formation of service road, no action was taken in the matter.

8. Respondent No.5/Projector Director, National Highways Authority of India (hereinafter referred to as 'the NHAI'), contested the matter by filing a counter affidavit *inter alia* stating that as per EPC Contract Agreement for construction of flyover, service road of 7 meters width is to be provided adjacent to the 1st flyover and not 10 meters as claimed by the petitioners. A specific stand was taken by respondent No.5 to the effect that the design and location of the flyover was changed at the instance of the State Government which has lead to the reduction of the existing service road and further that as the location of the flyover was changed at the instance of the State Government, it has to take necessary action for acquisition of land required for service road and the cost of additional land has to

be borne by the State Government. While stating that respondent No.3 conducted a review meeting with the officials of respondent Nos.1 to 5 on 22.11.2019 and submitted a report to respondent No.2 recommending for formation of service road at a width of 8 to 10 meters, it was asserted that if respondent No.2 cooperates and acquires the required land, NHAI will construct the service road as assigned by respondent No.3.

9. The learned Single Judge, after considering the matter, by an order dated 31.12.2019, disposed of the writ petition, with a direction to respondent No.5 to form service road, *inter alia* holding as follows:

“8. There is no dispute regarding construction of flyover, duty of respondents to form service roads for approach, but the dispute is only whether it is 7 meters service road as contended by respondents or 10 meters service road as per guideline No.2.12.2.1 as contended by petitioners.

9. No doubt, according to contention of respondents, they entered into contract with contractor for formation of 7 meters width service road as contended in the counter. But, their contract with contractor is irrelevant for the purpose to decide the issue and the guidelines framed and published by Ministry of National Highways is relevant. Guideline No.2.12.2.1 reads as follows:

“In open country with isolated built up area, the service road shall have 7 meters wide carriage way and 1.5 meters wide earthen shoulder on either side. In built up area, the service road shall have 7.5 meters wide carriage way (including kerb shyness of 0.25 meters on either side) with raised footpath/separator on either side as given para 2.15 and as shown in Fig.2.6. Any deviations to the above provisions shall be specified in schedule ‘D’ of the Concession Agreement. Wherever required provision for Parking bays of length of 20 meters and width of 3 meters

may be made along the service road and the same shall be specified in schedule 'B' of Concession Agreement."

10. Here in this case, there is no Concession Agreement, except an agreement for construction of flyover and formation of service road. In the absence of any material to show that there is any Concession Agreement, authorities are bound to form service road of 7.5 meters wide carriage way (including kerb shyness of 0.25 meters on either side), since the flyover is not built up area. Therefore, respondents are bound to form service road for public use and any contravention may lead to serious consequences. Apart from that, there is no Concession Agreement between the parties. In the absence of any Concession Agreement, respondents are bound to formulate service road of 7.5 meters wide carriage way (including kerb shyness of 0.25 meters on either side).

11. Hence, I find that it is a fit case to issue direction to fifth respondent to form service road in terms of Guideline No.2.12.2.1 of the Manual of Specifications & Standards for Four-Laning of Highways through Public Private Partnership, IRC;SP:84-2014, within three (3) months from the date of receipt of copy of this order."

10. Aggrieved by the order passed in the said writ petition, respondent No.5/ NHAI filed W.A.No.401 of 2020.

11. W.P.No.25830 of 2020 was filed with reference to grievances of the petitioners therein in respect of the 2nd flyover proposed to be constructed parallel to the Benz circle/1st flyover. The relief sought for in the said writ petition, reads thus:

“It is therefore prayed that this Hon’ble Court may be pleased to issue writ, order or direction more particularly one in the nature of writ of Mandamus directing the respondents

1) to form a service road on the western side of the 2nd flyover, with a width of 10 mtrs vide guideline No.2.12.2.1 of manual specifications and standards;

2) directing to form an underpass in continuation of the existing Fakeergudem underpass at a width of 18 mtrs or in the alternative to form a 4 lane junction at that place;

declaring their action as illegal and volatile of Article 14 and 21 of the Constitution of India and in violation of the National Highways Act and the circulars issued from time to time on the subject and pass such other orders may deem fit and proper in the circumstances of the case.”

12. The grievance ventilated by the petitioners claiming to be the residents of various colonies in and around Patamata, Patamatalanka, Fakeergudem, Balaji Nagar and Ramalingeswara Nagar of Vijayawada Municipal Corporation, is that the respondents having proposed to construct 2nd flyover from Screw Bridge (Jyothi Mahal) junction to Novotel junction, proposes to form a service road with a width of carriage way of 5.5 meters (slipway) instead of a service road with 7.5 meters wide carriage way (including kerb shyness of 0.25 meters) on either side. While stating that respondent No.1 proposed to construct 2nd flyover at a length of Km. 2.47 meters covering Benz circle, Nirmala Convent junction and Ramesh Hospital flyover junction, for free inflow of National Highway traffic from Chennai to Calcutta without disturbance to local traffic at the said three junctions, they allege that the proposed construction of 2nd flyover without formation of a

parallel underpass at Fakeergudem junction would cause serious inconvenience to the residents of the above said localities in as much as they have to travel at least 2 kms., from the underpass to reach 1st flyover. They contend that if underpass or four- lane junction is formed at Fakeergudem junction, the residents of the above said localities would reach the Benz circle/1st flyover within a distance of 500 meters. While stating that if the residents of the area have to travel 2 kms., to reach the Benz Circle, there would be any amount of traffic jam at the earmarked place and also live threat, in view of the highly concentrated traffic at the 'U turn', the petitioners claim that the NHAI officials failed to foresee the situation and mechanically adopted the plan for formation of western side/2nd flyover.

13. Respondent No.6 filed a counter stating *inter alia* that the construction of Western side/2nd flyover is different and being constructed duly accommodating the structure in the available ROW (Right Of Way) to avoid any additional land acquisition and disturbing the existing habitants. So, a provision for 5.5 meters slip road was made in the agreement and further in compliance to IRC:SP:87 deviations from Manual has been mentioned in Schedule 'D'. It was also averred that the present flyover/2nd flyover starts just before Fakeergudem junction and hence construction of underpass at the said junction does not arise. While stating *inter alia* to the effect that the western side flyover/2nd flyover is being constructed at the request of the State Government, it is claimed that the ROW is already under the possession of NHAI and if any additional land is required in connection with the said flyover/2nd flyover, it will be provided by the Government of Andhra Pradesh. Reliance is also placed on State Government's D.O., letter dated 11.02.2020 addressed to the Chairman, NHAI.

14. Another learned Single Judge, taking the view to the effect that it would not be appropriate for the Courts to step into these issues, dismissed the writ petition *inter alia* opining as follows:

“M/s. NHAI is a technical body with huge experience in the construction of roads and flyovers. In such technical matters, the view of M/s. NHAI should be accepted and it would not be appropriate for the Courts to step into these issues.”

15. Aggrieved by the said order, the writ petitioners preferred W.A.No.210 of 2021.

16. Writ Petition (PIL) No.240 of 2020 has been filed claiming to be in public interest. The relief sought for in the writ petition pertains to the 2nd flyover. In the affidavit filed in support of the writ petition, it is *inter alia* alleged that respondent No.3 in an arbitrary and irrational manner is proposing to construct a 2nd flyover which is parallel to the existing flyover without providing requisite service road in terms of the guidelines/rules issued by respondent No.1. While stating that more than 10 years back, with a view to prevent the passing of lorries and other passenger vehicles on NH Nos.16 and 65 into the city, a bypass road was proposed by the respondents from Peda Avutupalli to Gollapudi and from Gollapudi to Kaza of Guntur District, it was asserted that the required land was also acquired by the NHAI. Further that the bypass road work is already in progress and the construction of 2nd flyover in view of the same, is absolutely unnecessary and nothing but wastage of public funds with resultant burden on the exchequer.

17. Though the writ petitioner sought a prayer to direct the respondents to forbear from executing/constructing the 2nd flyover initially, in the rejoinder/reply affidavit filed by him on 09.02.2021, he confined the relief as indicated in para No.5 which reads as follows:

“I state that though I have prayed for a larger relief in the above PIL, I am confined my prayer only to the requirement of providing a service road of 7.5 meters width next to the western side flyover which is now under construction.”

18. On behalf of respondent No.2/Government, the Principal Secretary, Transport, Roads and Buildings Department, filed a counter affidavit, the relevant portion of which *inter alia* as follows:

“5. I submit that though bypass for Vijayawada city was planned, another 3-Lane Flyover on the West side was requested by State Government to cater to heavy city traffic and the traffic from Machilipatnam so as to reduce road accidents and traffic congestions and to ensure smooth flow of traffic. Further, based on traffic volume and the traffic surveys conducted by the consultants, there is a necessity for a 6-Lane flyover.

“6. It is submitted that, though the request for another 3-Lane fly over on western side was initiated by the State Government, the study of Alignment, Technical Feasibility, Costing and Work has to be executed by the NHAI authorities only.....”

19. Respondent No.4 i.e., the Project Director, NHAI, filed a counter affidavit stating *inter alia* that the writ petitioner has no *locus standi* to file the matter under the guise of Public Interest Litigation as he is having private property near Ramesh Hospital junction. While stating that the proposed flyover on the western side is

falling in the built up area, it was averred that the feasibility of western side flyover was taken up through consultants and final feasibility report was prepared and based on discussions held in various meetings with District Authorities of the Government of Andhra Pradesh and the same was designed as per IRC specifications with provision of 5.5 meters slip road and 7 meters wide service road to be accommodated in the existing ROW. It was also stated that the ROW is already under the possession of the NHAI and if any additional land is required in connection with the above three lane flyover that will be provided by the Government of Andhra Pradesh.

20. Heard Mr. P.Veera Reddy, learned Senior Counsel assisted by Mr. S.S.Varma, Advocate, appearing on behalf of the NHAI/appellants in W.A.No.401 of 2020 and respondent Nos.3 and 5 in W.A.No.210 of 2021 and also heard Mr. V.S.R. Anjaneyulu, learned counsel for respondent Nos.1 to 30 in W.A.No.401 of 2020 and the appellants in W.A.No.210 of 2021.

SUBMISSIONS:

21. Sri P.Veera Reddy, learned Senior Counsel while advancing arguments on behalf of NHAI, submits that the 1st flyover was constructed under an EPC contract agreement and the learned Single Judge's order in W.P.No.19887 of 2019 dated 31.12.2019 to form/lay a service road in terms of guideline No. 2.12.2.1 of Manual of Specifications & Standards for Four-Laning of Highways in IRC:SP:84-2014 is not tenable. He submits that the said specification is applicable only in respect of Four-Laning of Highways through Public Private Partnership (PPP) mode and not in respect of works undertaken through EPC agreement. He further submits that

the design of the flyover was changed at the instance of the State Government and as a result of the same, the necessity for additional land arose, and if the State Government acquires the land by bearing the land acquisition costs and makes available the land, NHAI would undertake the works relating to formation of service road in respect of the 1st flyover. He submits that the learned Single Judge failed to appreciate that unless the State Government acquires the land and hands it over to NHAI, it cannot be expected to complete the service road works. Insofar as Writ Appeal No.210 of 2021 concerning the 2nd flyover, the learned counsel supported the order of the learned Single Judge in dismissing the writ petition. He submits that construction of flyovers and formation of roads on the National Highways involves issues which *inter alia* are technical in nature and viewing the matter in the correct perspective, the learned Single Judge rightly not interfered or issued any directions to the authorities. He also submits that the 2nd flyover, by virtue of its design and height which is less than the 1st flyover which is already in use, would not facilitate formation of underpass at Fakeergudem junction, as sought for by the writ petitioners and the learned Single Judge's view cannot be found fault with in the attending facts and circumstances of the case.

22. To a specific query posed by the Court, the learned counsel submitted that the specifications/guidelines in IRC:SP:84-2014 of Manual of Specifications & Standards for Four-Laning of Highways, a copy of which was filed pursuant to the order dated 23.07.2021, has no statutory force. He submits that the said specifications as contended earlier are applicable for Four-Laning of Highways through PPP mode and the Manual 'may' also be used for non-PPP projects, but it is not mandatory as the instructions do not contain the expression 'shall'. He,

therefore, submits that there is no requirement of following the said specification in IRC:SP:84-2014 which contemplates providing 7.5 meters service road. Accordingly, he requests for passing appropriate orders allowing W.A.No.401 of 2020 and dismissing W.A.No.210 of 2021.

23. *Per contra*, Mr. V. S. R. Anjaneyulu, learned Senior Counsel appearing for the writ petitioners/respondents in W.A.No.401 of 2020 submits that the NHAI is under an obligation to provide service road as contemplated in terms of IRC :SP:84-2014. He submits that in fact the NHAI/concerned authority has issued a notification on 28.01.2019 under Section 3A(1) of National Highways Act, 1956 proposing to acquire the land *inter alia* for providing service road and for the reasons best known to the authorities, the same was not materialized. He further submits that the Collector, Krishna District / 3rd respondent in W.P.No.19887 of 2019 addressed a letter as long as back on 23.11.2019, after visiting the site, that appropriate service road with a minimum width of 8 meters is necessary to serve the residents of the area and requested the higher authorities to address the NHAI to resolve the issue and to take a positive decision on releasing the cost required for land acquisition as the demand for service road is genuine. Be that as it may, the learned counsel would submit that the learned Single Judge, after considering the issues in the right perspective, issued directions for formation of service road in terms of the specification mentioned earlier. He submits that there is no illegality or perversity in the order of the learned Single Judge, calling for interference by this Court.

24. With regard to the order dated 09.03.2021 passed by the learned Single Judge dismissing W.P.No.25830 of 2020, Sri V.S.R. Anjaneyulu appearing for the

appellants in W.A.No.210 of 2021 would submit that the learned Single Judge failed to appreciate that due to non-formation of underpass at Fakeergudem junction as in the case of 1st flyover, the residents of the colonies adjacent to the flyover has to travel at least 3 kms. i.e., 1.5 kms. to take a 'U turn' and further 1.5 kms. to reach their colonies. He also submits that the NHAI is also required to provide service road in respect of western side flyover/2nd flyover and cannot wriggle out from its obligation on some reasons attributable to the State Government. He submits that the learned Single Judge ought to have appreciated that in similar circumstances, with reference to providing service roads in the case of 1st flyover, a learned Single Judge had issued positive directions and granted the same. Accordingly, he submits that the W.A.No.210 of 2021 may be allowed by setting aside the order of the learned Single Judge.

CONSIDERATION AND CONCLUSIONS:

25. On a careful analysis of the rival submissions, the issues that fall for consideration by this Court is with regard to providing service roads on the side of the flyovers referred to above and formation of underpass at Fakeergudem Junction in respect of the Western side/2nd flyover. In so far as formation of service road is concerned, the learned Single Judge in W.P.No.19887 of 2019 while referring to Guideline No.2.12.2.1 of the Manual of Specifications & Standards for Four-Laning of Highways issued a direction to form service road in terms of the said guideline, in respect of the 1st flyover. The contention advanced by Mr. Veera Reddy that the said specification is applicable to the works executed by PPP mode, but not to EPC agreement, in the opinion of this Court, deserves to be rejected

since clause 1.1 of Section 1 of the said Manual clearly provides that the Manual 'may' also be used for non-PPP projects. His submission in this regard that the expression used in clause 1.1 is 'may' but not 'shall' and that the said specifications are not having statutory force deserves no appreciation for more than one reason. No other materials are placed before the learned Single Judge or this Court in relation to formation of service roads while constructing flyovers like in the present case, much less a concession agreement providing for deviations to the specification in schedule 'D' as contemplated under clause 2.12.2.1. Under the said circumstances, the view taken by the learned Single Judge while issuing directions in W.P.No.19887 of 2019 cannot be considered as illegal, unjust or perverse. Further, a reading of the counter affidavits filed on behalf of the NHAI and the communication/letter dated 23.11.2019 of the District Collector, Krishna referred to supra, would make it clear that there is no dispute with regard to providing the service road of requisite width to avoid inconvenience to the public. However, the major impediment appears to be with regard to acquisition of land which was a consequence of change of design, according to the NHAI, at the instance of the State Government and the costs to be borne in that regard. While it is the specific assertion of the NHAI that the land has to be acquired at the cost of State Government and made available to it for formation of service road, the State Government, for the reasons best known to it, has not filed any affidavit with regard to their stand in W.P.No.19887 of 2019 and W.P.No.25830 of 2020.

26. Be that as it may. The petitioners, for that matter, public at large are not concerned with regard to acquisition of land and who has to bear the costs. It is an issue to be resolved amongst the respondents i.e., the NHAI and the State

Government and public should not be subjected to inconvenience by reason of the same. Having undertaken the works of the 1st flyover and brought the same into operation, this Court is of the considered opinion that there is no justification on the part of the NHAI to back off from its responsibility to form the service road for the convenience of the public in terms of the specifications referred to supra, on any ground, much less on the one as projected by it.

27. For the afore going reasons, this Court see no good reason to interfere with the directions issued by the learned Single Judge in W.P.No.19887 of 2019 and accordingly Writ Appeal No.401 of 2020 filed by the NHAI is dismissed.

28. Insofar as W.A.No.210 of 2021 is concerned, the contentions advanced by Mr. V.S.R. Anjaneyulu on behalf of the appellants/writ petitioners that due to non-formation of underpass at Fakeergudem Junction, the habitants of the adjacent colonies have to travel about 3 kms. in all deserves no consideration, in view of the submission of Mr. Veera Reddy that the height of the Western side/2nd flyover is less and it is not feasible to form underpass at the said junction. No doubt, non-formation of underpass may definitely cause inconvenience to the petitioners/public to some extent. But, if it is not feasible to provide the same owing to any technicalities, the same cannot be insisted upon. It is a matter of common knowledge that in big cities the commuters have to travel long distances to reach a traffic junction or to take a 'U' turn to reach their destination. As rightly pointed out by the learned Single Judge, these matters are technical in nature and it is appropriate to leave the same to the wisdom of NHAI which is having expertise in the field and expert personnel with it. To that extent, this Court is in complete

agreement with the view taken by the learned Single Judge in W.P.No.25830 of 2020. However, with regard to the prayer sought for by the appellants/writ petitioners for formation of service road on the side of Western/2nd flyover in terms of clause 2.12.2.1 of the Manual of Specifications & Standards for Four-Laning of Highways, in the opinion of this Court, in the absence of any other material, the view taken in respect of W.A.No.401 of 2020 equally applies and it is the responsibility of the NHAI to provide the service roads in terms of the said specification. With regard to acquisition of land and payment of costs etc., the reasoning/conclusions arrived at supra in respect of 1st flyover applies with equal force to the case of 2nd flyover also.

29. Accordingly, W.A.No.210 of 2021 is allowed in part with a direction to the respondents 3 and 5 to form service road in respect of the Western side/2nd flyover in terms of guideline No.2.12.2.1 of Manual of Specifications & Standards for Four-Laning of Highways through Public Private Partnership IRC:SP:84-2014 within a period of three months from the date of receipt of a copy of this order.

30. W.P.(PIL) No.240 of 2020: Though in this case the petitioner sought a direction to the respondents to forbear from constructing the 2nd flyover, as noticed earlier, he has given up the same and seeking the relief of laying/forming of 7.5 mts. width service road next to the Western side/2nd flyover under construction. The reliefs prayed for in W.P.No.25830 of 2020 include a similar prayer with regard to service road which has been dealt with supra. Further, the writ petitioner in his affidavit categorically stated as follows:

“2(e): If at all a service road is to be provided for the 2nd flyover, it has to be in the extreme left side where the properties of the petitioner are situated.”

31. In view of the specific averment on oath, the present writ petition, where private interest is involved, cannot be treated as one instituted in the interest of public. For the aforesaid reasons, this Court is not inclined to entertain the above Public Interest Litigation. Accordingly, the same is dismissed.

32. Before parting with the matters, this Court hastens to add that interest of the public at large is paramount and the respondents, be it NHAI or State Government are required to discharge their obligations in matters of this nature without much ado. Lest, the very purpose of construction of these flyovers with huge public monies would not achieve the desired object, result in more expenditure towards cost of land acquisition, while the problems of the commuters remain unsolved.

33. Miscellaneous applications, if any, pending shall stand dismissed. No costs.

ARUP KUMAR GOSWAMI, CJ

NINALA JAYASURYA, J

CBS/BLV

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

**HON'BLE MR. JUSTICE ARUP KUMAR GOSWAMI, CHIEF JUSTICE
&
HON'BLE MR. JUSTICE NINALA JAYASURYA**

W.P.(PIL) No.240 of 2020, W.A.Nos.401 of 2020 & 210 of 2021

31st day of August, 2021