

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WPPIL No. 58 of 2019Sanjay Rajak **Versus** State Of Chhattisgarh

alongwith

WPPIL No. 63/2019

17.01.2024	Heard Shri Palash Tiwari and Shri Amit Soni, Advocates for the petitioners. Also heard Shri YS Thakur, Additional Advocate General for the State, Shri Dhiraj Kumar Wankhede for the NHAI, Shri A.S. Kachhwaha, Shri Rahul Jha, Shri Ashish Tiwari, Dr. Sudeep Agrawal, Shri Shailendra Tiwari, Shri Anuroop Panda, Ms. Chetna Sharma, Shri Amit Tirkey, Shri Sanjay Rajak, Advocates for respective respondents as well as Mr. Rajkumar Mishra, intervenor in person, through Video Conferencing, On the last date of hearing i.e. on 19.12.2023, this Court had passed the following orders: “Mr. Chandresh Shrivastava is directed to inform this Court under which authority of the State, the Vidhan Sabha Road, Raipur, which connects the National Highway and the State Highway (Dhaneli to Mandir Hasaud) comes and the competent authority shall file its personal affidavit stating the steps taken for repairing of the road, absence of street lights and stray cattle sitting on the road endangering the safety of passers-by and also the stray cattle specially cows on

the said road causing great inconvenience to the citizens going on the road. The affidavit shall be filed before 15.01.2024.

Mr. Wankhede shall also file an affidavit regarding lighting condition of the National Highways as it has been noticed that though there are street lights on the road, but the same are not in working condition and the stray cattle sitting on the road cannot be seen by the passers-by and it is a risk to the lives of the persons, who are travelling on the National Highways. He is also directed to file affidavit regarding illegal encroachments made on the National Highways. List these cases on 15.01.2024.”

Mr. Dheeraj Wankhede, learned counsel appearing for the respondent No. 18-National Highway Authority of India Ltd. Submits that pursuant to the said order, Mr. Ajay Dhal, Project Director, Project Implementation Unit, (for short, the PIU) Bilaspur, National Highways Authority of India, has filed an affidavit dated 13.01.2024 wherein it has been submitted that appropriate action has been taken by the NHAI with regards to the upkeep and monitoring of electricity/lightning conditions in the National Highways as well as the illegal encroachments. Further, surveys in respect of multiple projects have been conducted by the NHAI as detailed in paragraph 4 of the affidavit. The NHAI, through its five PIUs has been bestowed with the responsibility of providing street lights on the national highways. The NHAI entered into contractual agreements with the specific contractors for construction of different National Highways and following the due provisions as specified in the contract, regularly

monitors and maintains the street lights ensuring seamless operation in various locations such as toll plaza area, rest areas, truck lay-by , bus bay and bus shelter locations, grade separated structures, inter changes, flyovers, under-passes, over-passes and almost 90% of the street lights are functioning. In case of defects being found, they are promptly repaired.

With regard to the Bilaspur Sargaon package, the Project Director, Bilaspur has put efforts to switch on the lights of the aforesaid package which is between Bilaspur-Raipur. Further, tender process is also going on for operation and maintenance of this package on performance based maintenance contracts and it will be completed soon. However, an alternative mechanism with the help of adjoining contractor is in place to cater the emergent need.

It has been further stated in the affidavit that cognizance has been taken against the illegal encroachers in the National Highways and for the same, notice under the Third Schedule (Rule 11), Notice for Removal of Unauthorised Occupation, under (2) of Section 26 of Control of National Highway (Land and Traffic) Act, 2002 has also been issued against the encroachers and subsequent letters have also been sent to the Collectors to take action against them. The illegal encroachers include the Hotels and *Dhabas* erected by different persons as well as the illegally parked, overload trucks on

highways which are cause of nuisance on the National Highways.

Mr. Wankhede submits that for removal of the illegal encroachments, assistance of District Administration and local authorities is required.

So far as menace with regard to stray cattle is concerned, Mr. Wankhede submits that day to day monitoring and maintenance on variable sections is going on.

Mr. Yashwant Singh Thakur, learned Additional Advocate General appearing for the State submits that pursuant to the aforesaid order dated 19.12.2023, Dr. Kamalpreet Singh, Secretary, Government of Chhattisgarh, Public Works Department and the Chief Engineer, Public Works Department, National Highway Zone, Raipur, have filed their respective affidavits.

It has been submitted by the Secretary, Government of Chhattisgarh, Public Works Department as well as the Chief Engineer, National Highway Zone, PWD, Raipur, that the road under consideration is Dhaneli-Saddu-Zora Ringh Road No. 3 which is 17.2 KMs long and this road connects the National Highway No. 30 (Raipur to Bilaspur Road) at village Sankara, near Dhaneli, Vidhan Sabha at Sddu and National Highway No. 53 (Raipur-Arang-Saraipali road) at village Zora out of which 9.5 KMs road falls under the PWD NH Division Raipur and 7.7 KMs of road falls under the

PWD (B&R) Division No. 3. Mr. Thakur submits that an agreement has been entered into with the contractor namely M/s. Suresh Agrawal for carrying out the BT patch repair work of stretch of 9.5 KM from Dhaneli to Saddu. So far as installation of street lights over Tekari ROB is concerned, a request was sent by the Chief Engineer, PWD, NH Zone, Raipur to the Chief Engineer, PWD (E&M) Raipur on 03.01.2024. Similar letter has also been issued to the Ministry of Road Transport and National Highways through its Regional Officer. Mr. Thakur further submits that on continuous basis, the office of the PWD, NH Division is taking actions for removal of stray cattle sitting on the road, however, the necessary infrastructure and the authority to shift the cattle is not vested with the PWD, NH Division, Raipur and as such the drive remains a temporary arrangement, hence, a request has been made to the Chief Executive Officer, Zila Panchayat, Raipur for coordination with the employees of the PWD. Further, the process of BT patch repairing work between Saddu to Jora has already been completed in the month of December, 2023.

Lastly, Mr. Thakur submits that earnest efforts are being made on the part of the State authorities for ensuring that no inconvenience is caused to the public at large who are using the National Highways and the orders passed by this Court may be complied in its letter and spirit.

From perusal of the affidavits as above, it is evident that though

the State and its authorities are taking appropriate measures, but still it is being noticed through newspaper and social media reports that road accidents are taking place because of stray cattle. Much more is required to be done at the end of both the State and the NHAI.

Mr. Thakur as well as Mr. Wankhede have ensured the Court that further necessary steps would be taken and monitoring shall be done by the NHAI so that no unfortunate accident takes place wherein there is a loss of human life and animals. Mr. Thakur further ensures that the State authorities and the District Administration would extend their fullest cooperation to the NHAI and all necessary measures would be taken for removal of any kind of anomalies in the National Highways.

List this case again on **28.02.2024** on which date the State shall file an affidavit of the Principal Secretary, Department of Home, with respect to the steps which have been taken by the District Magistrate of the concerned Districts.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice