

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 1272/2019

GYAN PRAKASH

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

([TO BE TAKEN UP IMMEDIATELY AFTER FRESH MATTERS ]  
IA No. 135458/2019 - PERMISSION TO APPEAR AND ARGUE IN PERSON  
IA No.1096/2021 - FOR URGENT HEARING AND INTERIM RELIEF  
IA No.3439/2021 - EXEMPTION FROM FILING SWORN AFFIDAVIT  
IA No.184634/2022 - PERMISSION TO PLACE ADDITIONAL FACTS AND  
GROUNDS  
IA No.41241/2024 - PERMISSION TO PLACE ADDITIONAL FACTS AND  
GROUNDS)

Date : 20-02-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA  
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s)

Mr. Gyan Prakash, in-person

For Respondent(s)

Mr. Sharath Nambiar, Adv.  
Mr. B K Satija, Adv.  
Mr. T S Sabarish, Adv.  
Mr. Vishnu Shankar Jain, Adv.  
Ms. Shrishti Mishra, Adv.  
Mr. Aayush Saklani, Adv.  
Mr. Gurmeet Singh Makker, AOR

Mr. Sourav Roy, Adv.  
Mr. Atharva Kotwal, Adv.  
Mr. Kaushal Sharma, Adv.  
Mr. Vasudev Singh, Adv.  
Mr. Sourav Roy, AOR

Mr. Brijesh Kumar Tamber, AOR  
Mr. Vinay Singh Bist, Adv.  
Mr. Prateek Kushwaha, Adv.  
Mr. Yashu Rustagi, Adv.  
Mr. Sahas Bhasin, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Heard the petitioner appearing in person and the learned counsel appearing for the respondents.

2. In our order dated 10<sup>th</sup> October, 2023, we had flagged the issue of implementation of the provisions of the Control of National Highways (Land and Traffic) Act, 2002 (for short "2002 Act"). The affidavits have been filed on record which only indicate that the various authorities, as contemplated by Section 3 of the 2002 Act have been constituted and/or appointed. There are very important functions entrusted to the Highway Administrations. One is of prevention of occupation of highway land (Section 24), removal of unauthorised occupation from highway (Section 26), recovery of cost of removal of unauthorized occupation and fine imposed (Section 27), to regulate right of access to highway (Section 28) and regulation of traffic on the highway when situation contemplated by sub-section 2 of Section 31 arises.

3. Firstly, we find that there is no machinery created to carry out survey of highways under the jurisdiction of the various Highway Administrations to ascertain whether there are unauthorized structures or unauthorized occupation of highway land. Unless survey is regularly

carried out, the Highway Administrations will have no source of knowing whether there is any unauthorized occupation of highway land. Judicial notice will have to be taken of the fact that in different parts of India, there are unauthorized encroachments on highway land. Under Section 31(2) of the 2002 Act, it is provided that the Highway Authority must step in when highway becomes congested or unsafe for vehicular and pedestrian traffic.

4. There is no machinery provided to the citizens to complain about unauthorized occupation of the highway land, congestion or other situation contemplated by subsection 2 of Section 31 of the 2002 Act. There is no grievance redressal mechanism created for the benefit of the citizens. Unless such grievance redressal mechanism is developed and wide publicity is given to the existence of mechanism, the citizens will not have any opportunity to lodge complaints with the Highway Administrations. Moreover, by some method, periodical survey of the highways under the jurisdiction of Highway Administration has to be carried out with a view to ensure that the highways are kept free of encroachments.

5. After reading the affidavits of the Highway Administrations, one gets an impression that the machinery is available only on paper and there is no effective implementation of the provisions of the 2002 Act. We direct the Highways Administrations to come out with a scheme which will provide for regular inspection

of the highways, for establishment of grievance redressal mechanism and for taking prompt action on the basis of the complaints.

6. After carrying out survey, the Highway Administrations will have to exercise the powers under Section 26 of removal of unauthorized occupation so that the highways are clear of encroachments.

7. We grant time of two months to the various Highway Administrations appointed in terms of Section 3 to report compliance. The role of the Government of India does not come to an end after appointing various Highways Administrations. It is the duty of the Government of India to ensure that the Highway Administrations function effectively and discharge their duties under the 2002 Act.

8. The petitioner appearing in person makes a grievance that there is non-implementation of the provisions incorporated by way of amendment to the Highway Administration Rules in the year 2019. The affidavits of compliance to deal with this aspect. We grant time to the Highway Administrations to do so on or before 22<sup>nd</sup> April, 2024.

9. List on 30<sup>th</sup> April, 2024 immediately at the end of the miscellaneous matters.

(ANITA MALHOTRA)  
AR-CUM-PS

(AVGV RAMU)  
COURT MASTER