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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 24th July, 2026.

+ W.P.(C) 5108/2025 & CM APPL. 23357/2025

SAJJAN KAUR

.....Petitioner

Through: Mr. Gaurav Sarin, Sr. Advocate with
Ms. Smita Maan, Mr. Vishal Maan,
Mr. Harish and Mr. Kartik Dabas,
Advocates.

versus

UNION OF INDIA AND ANR.

.....Respondents

Through: Mr. Subhash Tanwar, SPC with Mr.
Mohit Tanwar and Mr. Mayank
Sehrawat, Advocates for R-1.

Mr. Sanjay Poddar, Sr. Advocate
along with Mr. Shivam Goel, Mr.
Anil Kumar Goyal, Ms. Ramya S.
Goel, Ms. Sanya Sharma and Ms.
Ishika Kanyal, Advocates for R-
2/NHAI.

Ms. Avni Singh, Panel Counsel,
GNCTD with Mr. Vaibhav Sharma,
Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

The controversy

1. The Petitioner seeks a direction restraining the National Highways Authority of India,¹ Respondent No. 2, from constructing a boundary wall

¹ "NHAI"



which would close the access presently available from a paved road lying within the right of way of the Dwarka Expressway to her residual parcel of land in Village Bijwasan.

2. The Petitioner contends that the paved road abutting her residual parcel is, in substance, a service road and is the only practical means of ingress and egress to her land. NHAI disputes this premise. It maintains that the road was neither designed nor sanctioned as a service road, but was provided only for access to the buildings housing the Advanced Traffic Management System.² NHAI further points out that the road lies immediately beyond a toll plaza on a high-speed, access-controlled expressway. The issue, therefore, is whether the Petitioner can compel NHAI to preserve private vehicular access through this road despite the statutory regime governing access to National Highways, the sanctioned project design, and the safety and operational concerns placed before the Court.

Facts

3. The Petitioner claims ownership of agricultural land situated in Village Bijwasan, New Delhi. A part of her holding was acquired for the construction, maintenance, management and operation of the Dwarka Expressway. The acquisition commenced with a notification dated 15th May, 2017 under Section 3A of the National Highways Act, 1956, followed by a declaration dated 20th November, 2017 under Section 3D. Award No. 1/2018/SW was made on 20th March, 2018, and possession of the acquired land was taken thereafter.

4. The description of the residual land is not entirely consistent. The



prayer in the petition refers to land comprised in Khasra Nos. 65//5/2 and 66//1/2 min. The report furnished by the Sub-Divisional Magistrate, Kapashera, on the basis of the latest revenue record, records the Petitioner as owner of land in Khasra Nos. 65//5/1 min and 66//1/2 min. NHAI, however, disputes even this factual premise. It contends that the parcel abutting its right of way belongs to the Petitioner's son, and that the Petitioner's own residual holding lies behind that parcel.

5. For the purposes of the present petition, it is unnecessary to resolve this controversy. The petition fails even if the case is examined on the footing most favourable to the Petitioner: that the proposed boundary wall affects her residual holding and that she does not presently possess a legally assured means of access through the surrounding private holdings.

6. The Petitioner's grievance is that, before the acquisition, her agricultural holding was approachable through an existing passage over adjoining lands. After the Dwarka Expressway was constructed, a paved road came to exist between the Expressway and the neighbouring private holdings. She claims to have used this road for access to her residual land. According to her, the proposed continuous boundary wall along the outer edge of NHAI's right of way would close this opening and render the parcel inaccessible.

7. NHAI commenced construction of the boundary wall in April, 2025. The present petition was instituted shortly thereafter, seeking a writ of prohibition against obstruction of the Petitioner's ingress and egress. For ease of reference, the layout of the site and the relative location of the Petitioner's residual land, the Dwarka Expressway and the surrounding road

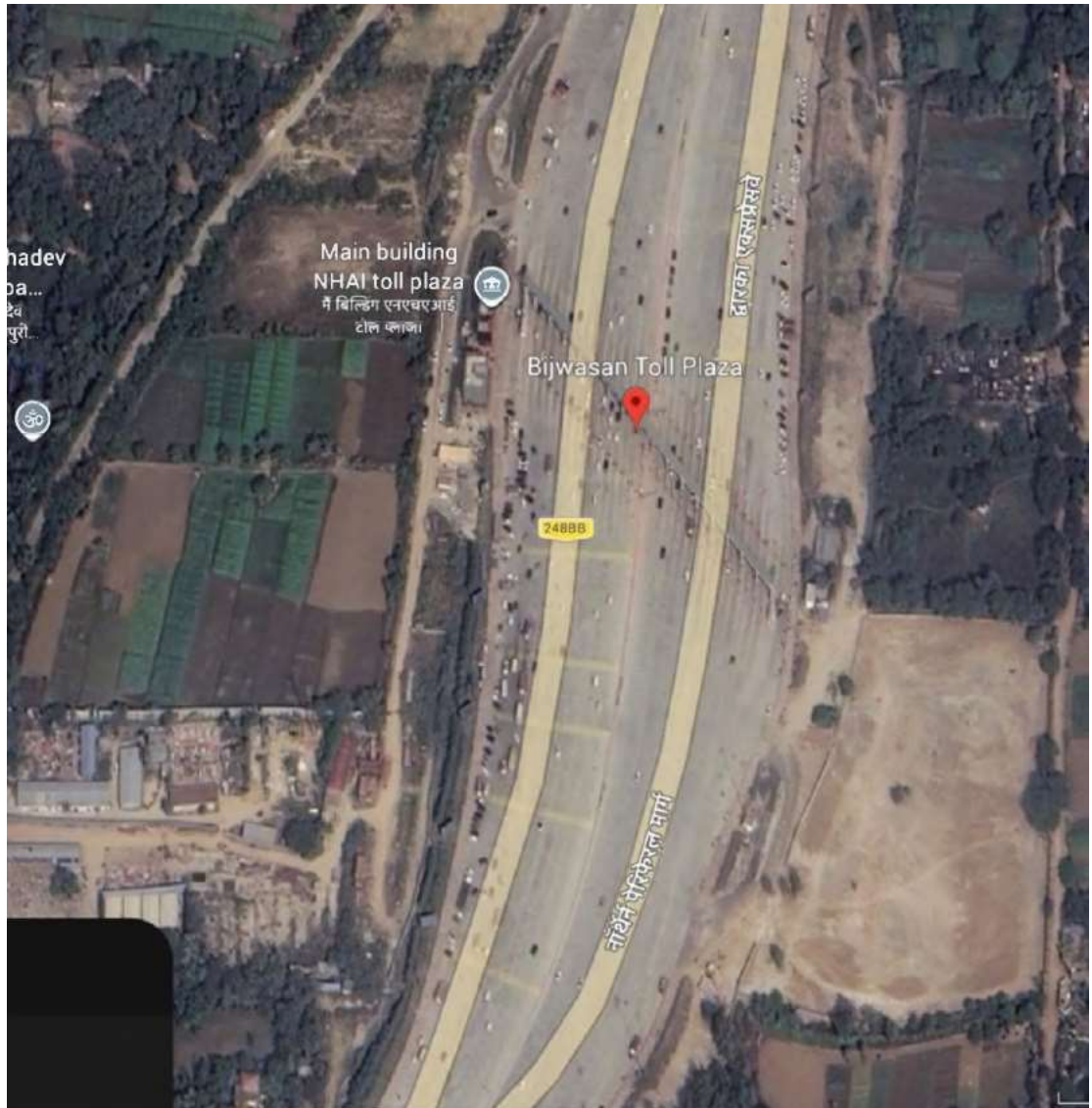
² "ATMS"



network are reproduced below:

Layout Map of Site





Proceedings before the Court

8. On 22nd April, 2025, the Court recorded NHAI's contention that the paved road was not a service road, but an internal road constructed to provide access to two buildings. At that stage, however, it was not disputed that the Petitioner was physically accessing her land through the road. NHAI and the Irrigation and Flood Control Department of the Government of NCT



of Delhi³ were, therefore, directed to coordinate and explore a solution. Pending such exercise, the pedestrian access then available to the Petitioner was protected.

9. On 22nd September, 2025, the Court directed a joint inspection by NHAI, the I&FC and the Revenue authorities. A joint inspection was thereafter conducted and reports were placed on record.

10. The I&FC initially described the disputed road as an NHAI service lane. It also noticed a *katcha* pathway proceeding towards the *Bijwasan Bund* through the Petitioner's land and other adjoining private holdings. Since the character and ownership of this pathway could not be ascertained during inspection, verification was sought from the Revenue authorities.

11. The Sub-Divisional Magistrate, Kapashera, reported on 15th October, 2025 that the pathway leading towards the *Bijwasan Bund* does not form part of Government or Gram Sabha land and lies within private holdings. The adjoining parcels were stated to be owned by individuals belonging to the same family or its branches. The I&FC consequently stated that the Petitioner's land was not contiguous to the *Bijwasan Bund* and that it could not provide access from the *Bund*.

12. Arguments were heard on 13th May, 2026. During the hearing, NHAI submitted that the proposed boundary wall formed part of the sanctioned project. It was directed to place the relevant record before the Court. Pursuant thereto, NHAI filed a detailed affidavit dated 22nd July, 2026, along with the project schedules, the feasibility report, the applicable specifications and standards, the Ministry circulars and the material relating to the ATMS.

³ "I&FC/the Department"



Submissions of the Petitioner

13. Mr. Gaurav Sarin, Senior Counsel, appearing for the Petitioner, submits that the right to property protected under Article 300A of the Constitution is not confined to the bare retention of title. It includes the ability to access, possess and reasonably enjoy the property. Having acquired a part of the Petitioner's holding for construction of the Dwarka Expressway, the State cannot so develop the acquired land as to render the residual parcel inaccessible and incapable of beneficial use.

14. He submits that the Petitioner's land has access only from the paved road situated between the private holdings and the Expressway. The other sides are surrounded by separately owned private lands. Reliance is placed upon the counter affidavit of the I&FC, which records that the Petitioner's land is not contiguous to the *Bijwasan Bund* and that the pathway leading towards the *Bund* passes through private holdings. The Department has itself stated that it cannot provide access to the Petitioner's land from the *Bund*. It is, therefore, argued that the mere physical existence of a *katcha* pathway through lands belonging to other persons, even if some of them are members of the Petitioner's family, does not constitute a legally secured or enforceable means of ingress and egress.

15. Mr. Sarin disputes NHAI's description of the paved road as an internal road meant exclusively for access to the ATMS buildings. He points out that the expression "internal road" does not find mention in the project schedules, the feasibility report, the IRC specifications or the circulars produced by NHAI. The road physically abuts the private holdings, is connected to the highway network and has been used for vehicular movement. The I&FC has also described it as an NHAI service lane.



According to the Petitioner, its legal character cannot be determined merely by the nomenclature subsequently adopted by NHAI in its affidavits.

16. It is further submitted that NHAI's reliance upon the typical layout of a toll plaza does not establish the actual sanctioned configuration at the site. The existence of the paved road is undisputed and is borne out by the photographs, videos and joint inspection reports. The Petitioner also relies upon visual material showing several farmhouses, hotels and other properties along the Dwarka Expressway enjoying access through adjoining service or slip roads. On this basis, it is contended that the Petitioner cannot be singled out for complete denial of access.

17. He relies upon the Guidelines dated 26th June, 2020 issued by the Ministry of Road Transport and Highways for grant of access to private properties adjoining National Highways. Particular reliance is placed upon the provisions which contemplate access to individual residential properties and agricultural farms through service roads, slip roads or appropriately designed acceleration and deceleration lanes. He submits that these provisions demonstrate that access to an abutting private property is capable of being regulated and engineered, and is not prohibited in absolute terms.

18. Reliance is also placed upon the circular dated 4th February, 2019 concerning construction of boundary walls along the right of way. It is argued that the circular itself preserves "ingress/egress points" as an exception to the requirement of a continuous boundary wall. The circular, therefore, cannot be construed as authorising NHAI to seal every adjoining parcel irrespective of the availability of any other access.

19. Mr. Gaurav Sarin, Senior Counsel for the Petitioner clarifies that the Petitioner does not seek direct access to the high-speed carriageway,



exemption from payment of toll, or unrestricted use of the disputed road by the public. The relief sought is confined to preservation of a regulated means of reaching the Petitioner's land. According to him, NHAI's concerns could be addressed by a controlled gate, restricted timings, identification of authorised vehicles, or any other suitable engineering or regulatory arrangement. The fact that access to the ATMS road is already available to authorised personnel, police and emergency vehicles is relied upon to contend that the issue is one of regulation, rather than an absolute impossibility of access.

20. In the alternative, it is submitted that the petition may be treated as a representation under Sections 28 and 29 of the Control of National Highways (Land and Traffic) Act, 2002, and NHAI may be directed to pass a reasoned decision upon the Petitioner's request for controlled access. Mr. Sarin submits that complete closure of the existing approach, without securing any other lawful and enduring access to the residual parcel, would be arbitrary and disproportionate.

Submissions of NHAI

21. Mr. Sanjay Poddar, Senior Counsel appearing for NHAI, disputes the foundational premise of the Petitioner's case and submits that her land cannot be characterised as landlocked. He contends that the adjoining parcels are owned by the Petitioner's son and other members of her family, and that the contiguous tract extends up to the *Bijwasan Bund*, a motorable road connected to the *Najafgarh Bijwasan Road*.

22. NHAI further submits that the Petitioner has materially misdescribed the residual parcel and relied upon an inaccurate site plan. According to it, the land immediately abutting the right of way belongs to the Petitioner's



son and not to the Petitioner. On this basis, NHAI has also raised objections as to delay, locus standi and suppression of material facts.

23. On merits, NHAI submits that the Dwarka Expressway is an access-controlled, high-speed corridor. The disputed road is not included in the sanctioned schedule of service or slip roads. It has been constructed to provide operational access to the buildings housing the ATMS, which comprises traffic monitoring cameras, incident detection and enforcement systems, vehicle-actuated speed displays and related highway safety infrastructure. The facilities are also used by the Delhi Police, the Haryana Police and emergency response vehicles.

24. NHAI relies upon IRC:SP:87-2013, under which the continuity of service roads is ordinarily broken in the toll plaza zone and every connection between a service road and the main carriageway must be through properly designed entry and exit ramps, supported by acceleration and deceleration lanes. The disputed road has none of these design features.

25. It is further submitted that the sanctioned service roads terminate at chainage 8+700, whereas the toll plaza is situated at chainage 9+045. The turn towards the disputed road lies immediately beyond the toll plaza. A private vehicle seeking to enter the road would be required to move sharply across lanes used by two-wheelers and heavy vehicles at a point where traffic is accelerating after crossing the toll barriers. NHAI considers such movement likely to create an accident-prone location.

26. NHAI also relies upon the circular dated 4th February, 2019, which requires a boundary wall along the extreme outer line of the right of way of greenfield access-controlled highways. The wall is stated to form part of the approved project and is intended to preserve access control, prevent



encroachment and ensure highway safety.

Preliminary objections

27. NHAI's objection of delay cannot be accepted. The Petitioner does not challenge the acquisition undertaken in 2017 or the vesting of the acquired land. Her immediate grievance arose when the boundary wall was sought to be constructed across the opening in April, 2025. The petition was filed soon thereafter.

28. There is substance in NHAI's contention that the description of the Petitioner's residual holding and its depiction in the site plan do not wholly accord with the subsequent revenue verification. The ownership and location of the adjoining parcels, including those held by the Petitioner's son and other members of the family, are also relevant to her assertion that the residual land has become landlocked.

29. A determination of title, boundaries or easementary rights over the surrounding private holdings would require evidence and cannot appropriately be undertaken in these proceedings. Since the petition can be decided without resolving those questions, the Court proceeds on the assumption stated earlier, namely, that the Petitioner's residual parcel is affected by the proposed wall and that she has not established a legally enforceable right of passage through the lands leading towards the Bijwasan Bund.

Statutory framework

30. Chapter IV of the Control of National Highways (Land and Traffic) Act, 2002 governs access to National Highways. Section 28 begins with a prohibition. No person has a right of access to a Highway through a vehicle, except to the extent permitted generally or specifically by the Highway



Administration in the manner prescribed under Section 29. Access is expressly made subject to the guidelines and instructions issued by the Central Government. The Highway Administration may also declare a Highway or any portion thereof to be limited for access and impose restrictions upon movement to, from or across it.

31. Under Section 29, a person seeking specific access must apply to the Highway Administration, which may grant permission with conditions or reject the request. Section 30 is of particular importance. It authorises the Highway Administration, notwithstanding any permission already granted, to refuse, regulate or divert proposed or existing access in the interest of the safety and convenience of traffic. Parliament has thus made traffic safety a controlling consideration even where a permission to access the Highway may otherwise exist.

32. The Ministry Guidelines dated 26th June, 2020, relied upon by the Petitioner, must be read as a whole. The provisions concerning access to private properties along ordinary National Highways or existing service roads cannot be read in isolation. Clause 2.15 specifically provides that, in the case of expressways and access-controlled highways, the general access-permission guidelines do not apply. No access permission is to be granted except at a predetermined location provided in the design of the expressway or access-controlled highway, with proper access or service road.

33. The Petitioner's reliance upon the general norms governing private properties, therefore, does not advance her case. Those provisions regulate the manner in which access may be considered where the design and configuration of the highway permit such an arrangement. They cannot be read as conferring a right to create a fresh access point within the toll plaza



zone of an access-controlled expressway, particularly when no such access forms part of the sanctioned design.

34. The words “except at ingress/egress points” in the circular dated 4th February, 2019 also cannot be understood as preserving an opening for every parcel adjoining the right of way. Ingress and egress points in an access-controlled facility are those incorporated in the sanctioned design or permitted by the Highway Administration in accordance with the governing standards. Otherwise, the exception would defeat the very access control which the circular seeks to secure.

The character of the disputed road

35. Considerable arguments have been addressed on whether the paved road adjoining the private holdings is a service road or an internal road. The nomenclature is not decisive. The character of a road forming part of a highway project must be ascertained from the sanctioned project documents, its design features, the manner in which it connects with the main carriageway, and the purpose for which it has been constructed.

36. The Petitioner is correct in pointing out that the expression “internal road” does not appear in the project schedules or the extracts of IRC:SP:87-2013 placed on record. That circumstance, however, does not establish that every paved road within the right of way must necessarily be regarded as a service or slip road. The project schedules identify the service and slip roads by their location and chainage. A road which is not included within those identified stretches does not acquire the character of a service road merely because it runs parallel to the Expressway or is capable of being physically traversed.

37. The project record produced by NHAI states that the service or slip



road along the relevant stretch extends only up to chainage 8+700. Schedule B separately identifies the portion between chainage 8+915 and chainage 9+220 as the toll plaza stretch, while NHAI has located the toll plaza at chainage 9+045. The disputed road is not shown in the schedule of service or slip roads at this location. Schedule D, in turn, provides that the configuration of service roads is to be governed by the relevant provisions of Schedule B. No deviation identifying the disputed road as an additional service road has been shown. The relevant extracts from the project schedules and the location of the disputed road in relation to the toll plaza are reproduced below:

Chainage		Length (m)	Number of lanes	Width (m)	LHS / RHS	Remarks
From	To					
Dwarka Expressway						
5+300	5+700	400	2	7.5	Both	
5+700	6+200	500	2	7.5	Both	
5+300	6+300	1000	3	11	LHS	
6+200	6+300	100	3	11	RHS	
6+300	7+800	1500	3	11	LHS	
7+100	7+600	500	3	11	LHS	
6+300	7+500	1200	4	14	RHS	
7+500	7+600	100	3	11	RHS	
7+500	7+970	470	2	7.5	RHS	
7+450	7+970	520	3	11	RHS	
7+800	7+950	150	5	18	LHS	
7+950	8+100	150	4	14	LHS	
8+100	8+700	600	4	14	LHS	
7+950	8+700	750	4	14	RHS	
Link Road to Sector 21						
5+700	6+100	400	3	11	Both	
Link Road from Sector 23						
5+600	6+250	650	3	11	Both	
Link Road to Najafgarh						
6+300	8+300	2000	3	11	Both	
6+300	7+030	730	3	11	LHS	Existing Slip Road above Airport Drain RCC Box, Only Overlay Required.



S. No.	Chainage of Dwarka Expressway		Design Chainage of Main Carriageway / Individual Link / Ramp		Length (m)	Width of Paved Carriageway (m)	Remarks
	From	To	From	To			
Main Carriageway							
1	5+300	8+915	5+300	6+577	1277	30	14 m wide Main Carriageway and 0.5 m wide shy distance in both directions
2			6+740	8+915	2175	30	14 m wide Main Carriageway and 0.5 m wide shy distance in both directions
3	8+915	9+220	8+915	9+220	305	As per the requirement of Toll Plaza	
4	9+220	9+500	9+220	9+500	280	30	14 m wide Main Carriageway and 0.5 m wide shy distance in both directions





38. This also answers the Petitioner's contention that NHAI has relied only upon a typical layout of a toll plaza. The typical layout contained in IRC:SP:87-2013 explains the governing design standards. NHAI's conclusion, however, does not rest upon that illustration alone. It is supported by the project-specific chainages, the sanctioned schedules and the physical configuration of the site.

39. IRC:SP:87-2013 requires service roads to connect with the main highway only through properly designed entry and exit ramps supported by acceleration and deceleration lanes. The prescribed minimum paved width of a service road is seven metres, and its minimum design speed is forty kilometres per hour. The acceleration and deceleration lanes are required to accommodate the speed differential between local traffic and the through traffic on the highway. Any departure from these requirements due to site constraints is required to be recorded in Schedule D.

40. The disputed road lacks these defining design features. There is no identified entry or exit ramp, nor any acceleration or deceleration lane, through which private traffic may safely enter or leave the main carriageway. Read with the sanctioned project record, which does not identify the road as a service road intended to carry local or access traffic, the absence of these features reinforces NHAI's position that the road serves a distinct operational purpose connected with the ATMS facilities.

41. NHAI has explained on affidavit that the road was constructed to provide operational access to two buildings housing the Advanced Traffic Management System. The ATMS comprises traffic-monitoring cameras, video incident-detection and enforcement systems, vehicle-actuated speed displays and related facilities. The buildings and the adjoining road are also



used by officials of the Delhi Police and Haryana Police, and for the positioning and movement of emergency vehicles.

42. The fact that authorised officials and emergency vehicles use the road does not confer upon it the character of a service road available for access to adjoining private properties. Their use is confined to the management, policing and safety of the Expressway and is integral to the operation of the highway infrastructure.

Road safety and the proposed regulated access

43. In ***In Re: Phalodi Accident v. National Highways Authority of India***,⁴ the Supreme Court emphasised that commuter safety is an integral aspect of Article 21 and directed NHAI to operationalise the components of ATMS across four and six-lane highways and expressways. The decision does not determine the present access dispute. It does, however, underscore that the continued and effective functioning of ATMS is a matter of public safety and not merely one of administrative convenience.

44. NHAI's safety objection is not confined to the general proposition that the Dwarka Expressway is access-controlled. Its affidavit identifies the location of the toll plaza, the termination point of the sanctioned service road, the absence of any designed merging infrastructure and the movement which a private vehicle would be required to undertake while entering the disputed road.

45. The disputed turn lies immediately after the toll plaza. The lanes towards the left are used by two-wheelers and wide or heavy vehicles. According to NHAI, a vehicle seeking to enter the disputed road would be required to make a sharp turn across these lanes within a short distance of



emerging from the toll barrier, at a point where traffic is accelerating towards a corridor having a permitted speed of up to 100 kilometres per hour. The Petitioner's own videos are relied upon by NHAI to illustrate the movement at the site.

46. The standards prescribed in IRC:SP:87-2013 recognise the safety implications of mixing local access traffic with high-speed through traffic. They require local traffic to be segregated and permit its introduction into the main carriageway only through properly designed ramps and transition lanes. The disputed location contains no such arrangement. NHAI's assessment that introduction of private vehicular movement at this point would create an unsafe traffic conflict is therefore founded upon the site configuration and the applicable design standards, and not upon a bare or generalised apprehension. The photographs reproduced below depict the post-toll traffic configuration and the movement required for a vehicle seeking to enter the disputed road.



⁴ 2026 SCC OnLine SC 646



47. The Petitioner has not placed any technical material to displace NHAI's assessment that private vehicular movement cannot safely be accommodated at the disputed point. That assessment is also supported by the project-specific record, which shows that the location falls within the toll plaza zone, beyond the termination of the sanctioned service road, and lacks the entry and exit ramps or transition lanes required for local traffic. The



Court cannot, in the absence of a demonstrated infirmity in that assessment, prescribe an alternative traffic arrangement of its own.

48. The Petitioner's suggestion of a locked gate, restricted timings or access confined to identified vehicles does not answer the central objection raised by NHAI. Such measures may regulate the number and identity of users, but they cannot alter the geometry of the toll plaza, create the requisite entry and exit ramps or transition lanes, or eliminate the conflict between a vehicle turning towards the disputed road and traffic accelerating from the toll lanes. The distinction sought to be drawn between authorised and unauthorised users also does not carry the matter further. Police personnel, ATMS officials and emergency vehicles use the road for purposes directly connected with the operation, safety and management of the Expressway. Their controlled access for those functions does not establish that the road can safely be opened for private vehicular access to adjoining land.

49. NHAI has further stated that private access may compromise the security of the ATMS installations and interfere with the unobstructed use of the road by police and emergency vehicles. These concerns find support in the material on record, having regard to the dedicated operational purpose of the road, its location within the toll plaza and ATMS zone. They therefore constitute relevant considerations in restricting the road to vehicles connected with the operation, safety and management of the Expressway.

50. The Petitioner has also relied upon access enjoyed by various hotels, farmhouses and other establishments situated along the Dwarka Expressway. These instances do not establish discriminatory treatment. No material has been placed before the Court to show that those properties are situated within the same toll plaza zone, obtain access through an ATMS operational



road, lack the prescribed transition facilities, or otherwise present comparable traffic conditions. Sites which differ materially in their location, road geometry and operational constraints cannot be regarded as similarly situated merely because they lie along the same Expressway.

51. NHAI has also referred to the possibility of toll leakage. The Petitioner has undertaken to comply with the applicable toll requirements and does not seek any exemption from payment. It is, therefore, unnecessary to rest the decision upon that apprehension. The road-safety considerations, the sanctioned termination of the service road, and the operational requirements of the ATMS independently sustain NHAI's refusal.

Scope of judicial review

52. NHAI is the statutory authority entrusted with the development, management and maintenance of National Highways. Decisions concerning the configuration of a highway, the segregation of local and through traffic, the location of access points and the measures necessary for road safety involve matters of engineering assessment and operational judgment.

53. In ***Union of India v. Dr. Kushala Shetty***,⁵ the Supreme Court observed that NHAI prepares and implements highway projects after study by experts in different fields, having regard to traffic intensity and the larger public interest. Courts are not well suited to determine the viability or feasibility of a particular highway project or alignment, and the scope of judicial review in such matters is necessarily limited. Interference may nevertheless be warranted where the action is contrary to the governing law, tainted by mala fides, unsupported by the record, or patently arbitrary.

54. Although *Kushala Shetty* arose in the context of acquisition of land



and alignment of national highway, the principle it enunciates applies equally to questions of highway design and traffic safety, which depend upon specialised technical assessment. The Court cannot substitute its own view of road geometry for that of the authority entrusted with designing and operating the corridor. It must, however, examine whether the authority has considered the actual site conditions, applied the governing standards and reached a conclusion supported by relevant material. Judicial deference to expertise does not foreclose review; it defines its limits.

55. Tested on that standard, NHAI's opposition to the Petitioner's proposed access cannot be characterised as a bare assertion of expertise. Its conclusion is founded upon the sanctioned project schedules, the feasibility report, IRC:SP:87-2013, the Ministry circulars, the termination of the designated service road before the toll plaza, the location of the disputed turn immediately beyond the toll barriers, the absence of entry and exit ramps or acceleration and deceleration lanes, and the operational purpose of the road serving the ATMS facilities.

56. The absence of a separately commissioned road-safety audit for the Petitioner's proposed access does not, in the circumstances of the present case, render NHAI's conclusion arbitrary. The relevant conflict emerges from the approved project configuration itself: the access is sought within the toll plaza zone, beyond the point at which the sanctioned service road terminates, and at a location where no transition infrastructure exists for the introduction of local traffic.

57. This is, therefore, not a case in which road safety has been invoked as a convenient or general narrative to defeat a private claim. The particular

⁵ (2011) 12 SCC 69



movement which gives rise to concern has been identified, its incompatibility with the sanctioned design has been explained, and the assessment bears a direct relationship to the statutory object of ensuring the safety and convenience of highway traffic.

58. In the absence of any violation of the statutory framework, mala fides, patent irrationality or contrary technical material, it would not be justified to direct NHAI to preserve an access which the authority has found to be inconsistent with the design and safe operation of the Expressway.

Article 300A and the claim of landlocking

59. The Petitioner's concern that the residual parcel may be left without legally secured access cannot be lightly dismissed. Effective access bears directly upon the use and value of immovable property. The status report of the I&FC also establishes that the route towards the *Bijwasan Bund* passes through private holdings and that the Department itself cannot provide access from the *Bund*. The Court is, therefore, unable to accept NHAI's submission that a legally enforceable alternative public access already stands established merely because the intervening lands are held by the Petitioner's son or other members of the family.

60. That conclusion, however, does not create a corresponding right in favour of the Petitioner over the land and operational infrastructure of NHAI. A right to enjoy property cannot be translated into a right to select the adjoining public land through which access must be provided, particularly where the selected route forms part of an access-controlled highway facility and the competent authority has found the proposed use unsafe.

61. Article 300A protects a person against deprivation of property save by



authority of law. The acquisition itself is not under challenge. Upon publication of the declaration under Section 3D of the National Highways Act, the acquired land vested absolutely in the Central Government free from all encumbrances. Section 3G expressly requires compensation to take account of rights in the nature of easements, damage caused by severance of the acquired land from the remaining holding, and injurious affection of other immovable property or earnings.

62. The Petitioner had, in fact, raised before the Arbitrator the consequences of severance and the effect of the acquisition upon the utility of her remaining land. Those proceedings and the reliefs available to her in respect of compensation are distinct from a claim to compel NHAI to retain an access point contrary to the sanctioned design. The present judgment does not express any view upon the merits of her claims in those proceedings.

63. To the extent an easementary right over the acquired passage is asserted, the vesting of the acquired land free from all encumbrances is material. The Supreme Court in State of *Himachal Pradesh v. Tarsem Singh*,⁶ has held that vesting free from all encumbrances encompasses the extinguishment of easementary rights. The statute addresses the consequence through compensation; it does not require the acquired corridor to remain subject to the former mode of access.

64. The Petitioner may, independently, have remedies for establishing a right of passage over the surrounding private holdings. Those questions involve the title, severance, prior use and necessity pertaining to private lands and cannot be adjudicated in this writ petition. No observation in this



judgment shall prejudice such proceedings.

65. Section 30(2) of the Control of National Highways (Land and Traffic) Act, which requires that alternative access given upon diversion of an existing access should not be unreasonably distant, does not assist the Petitioner in compelling an opening at the present location. The provision regulates an existing access to the Highway within the statutory access regime. The record does not establish that the Petitioner ever possessed an approved access under Sections 28 and 29 at the disputed point. The former agricultural passage over the land subsequently acquired cannot, after vesting under Section 3D, be equated with a sanctioned access point to the newly constructed access-controlled Expressway.

Whether the matter should be remitted to NHAI

66. The alternative prayer for a fresh consideration by NHAI also does not merit acceptance. A remand would be justified if the authority had failed to examine the request, overlooked a material consideration, or disclosed no rational basis for its conclusion. None of those deficiencies is present in the present case.

67. NHAI has, through its counter affidavit, subsequent affidavits and written submissions, considered the precise access sought by the Petitioner. It has examined the project design, the chainage, the character of the road, the applicable IRC standards, the toll plaza configuration, the ATMS requirements, the movement of emergency vehicles and the alternatives suggested by the Petitioner. Its conclusion is clear: private vehicular access through the disputed road cannot safely or operationally be permitted.

68. This is also not a case where NHAI seeks to supplement the reasons

⁶ (2001) 8 SCC 104



contained in a pre-existing administrative order through an affidavit. No such order is under challenge. The petition seeks an injunction against an ongoing act, namely, the construction of the boundary wall. NHAI has placed before the Court the contemporaneous project record and the technical basis upon which that act is being undertaken. The legality and rationality of the action has therefore, be examined on that record.

69. Directing NHAI to reconsider whether a gate may be provided at the very same location would require it to repeat an exercise already undertaken and an answer already supported by the material before the Court. Such a direction would serve no substantive purpose.

Conclusion

70. The Court accordingly records the following conclusions:

- i. The right to hold and enjoy property under Article 300A of the Constitution does not carry with it an inherent or vested right to obtain vehicular access through any particular adjoining land or road belonging to the State.
- ii. The material on record does not establish that the disputed road forms part of the sanctioned service or slip road network or was intended to provide access to adjoining private properties.
- iii. Under Sections 28 to 30 of the Control of National Highways (Land and Traffic) Act, 2002, access to a National Highway is permission-based and remains subject to regulation, refusal or diversion in the interest of traffic safety and convenience.
- iv. Clause 2.15 of the Guidelines dated 26th June, 2020 governs access to expressways and access-controlled highways. Access is permissible only at predetermined locations incorporated in the approved design and supported



by the requisite infrastructure.

v. The disputed road is situated within the toll plaza and ATMS operational zone and is not designed or equipped for private vehicular access.

vi. The proposed boundary wall forms part of the sanctioned access-control arrangement for the Project Highway and is not shown to have been conceived specifically to obstruct the Petitioner.

vii. The Petitioner has not established any legal entitlement to compel NHAI to provide or preserve access through the disputed road.

viii. The absence of a legally assured alternative public access does not create a corresponding right to obtain access through NHAI's operational infrastructure contrary to the sanctioned design and statutory framework.

ix. NHAI has disclosed a rational and technically supported basis for refusing the access sought by the Petitioner. No ground for judicial interference or for directing reconsideration of the request is made out.

71. The writ petition is, accordingly, dismissed. The interim arrangement protecting access shall cease to operate.

72. It is clarified that this judgment does not adjudicate upon the precise title or boundaries of the Petitioner's residual holding, any easementary right claimed over the adjoining private lands, or the claims pending under Section 3G of the National Highways Act.

73. The pending application also stands disposed of.

SANJEEV NARULA, J

JULY 24, 2026/hc