

(108+221) CWP-PIL-29 (O&M), 30, 36 & 42-2024  
CRWP-1830-2024

**Uday Pratap Singh Vs. UOI & others**

Present: Mr. Uday Pratap Singh, petitioner in person (in CWP-PIL-29-2024).  
Mr. Arvind Seth, Advocate, petitioner-in person (in CWP-PIL-30-2024).  
Mr. A.P.S. Deol, Sr. Advocate  
with Mr. Himmat Singh Deol, Mr. Vishal R. Lamba, Advocates,  
for the petitioner (in CWP-PIL-36-2024).  
Mr. R.S. Bains, Sr. Advocate  
with Mr. M.S. Chauhan, Advocate  
for the petitioner in CRWP-1830-2024.  
Mr. Pragbir S. Dhindsa, Advocate  
for the petitioner in CWP-PIL-42-2024.  
Mr. Satya Pal Jain, Addl. Solicitor General of India  
with Mr. Dheeraj Jain, Sr. Standing Counsel, for Union of India.  
Mr. M.S. Longia, Addl. A.G., Punjab  
Mr. Saurav Khurana, Addl. A.G., Punjab.  
Mr. Deepak Sabherwal, Addl. A.G., Haryana.  
Mr. Navjit Singh, Advocate for  
Mr. Manish Bansal, P.P., U.T., Chandigarh  
Mr. H.S. Bath, Advocate, for the applicant  
(in CM-14-15-CWPIL-2024 in CWP-PIL-29-2024).  
Mr. Pardeep Kumar Rapria, Advocate, for the applicant-intervener  
(in CM-22-23-CWPIL-2024 in CWP-PIL-29-2024).  
Mr. Hakam Singh, Advocate for the applicant in  
CM-29 & 30-CWPIL-2024 in CWP-PIL-29-2024

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In pursuance of the last order dated 28.05.2024, affidavit dated 09.07.2024 of Shri Mahavir Kaushik, Special Secretary to Government, Haryana, Home Department, on behalf of respondent No.2-State has been filed. As per the said affidavit, three high-ranking police officials from ADGP to the rank of Commissioner of Police, have been nominated for investigating the matter.

It is mentioned that in the month of January, 2024, the farmers had prepared to march towards Delhi and at that point of time, to stop the movement, prohibition orders had been imposed to stop tractors/trolleys for maintaining the law and order and police forces were also deployed at the Shambhu Border. The number of agitators who had gathered were around 15000-20000 equipped with weapons and modified tractors/JCB/Poclaim etc. Damage to the barricades and injuries were also sustained at that point of time by the police personnel. It has also been mentioned that the agitation of the so-called Kisan Unions was aggressive and they have been repeatedly warned by the authorities not to flout the law and order. There was no intention of the local police to cause loss of life of any kind but the prime duty of the police was to maintain law and order situation and the local businessman/industrials/resident welfare association of Haryana had also given representations to save their lives and liberty and not to allow the agitators to block the National Highways in Haryana or the NCR. Therefore, the Highway had been closed. It has further been averred that public at large has suffered, having adverse effect on their daily routine and the local business of industries has also been severely affected from the blocking of the National Highways with parking of tractor/trolley upon the road for a long time at Shambhu Border. It has also been admitted that due to this, inconvenience was being caused to the public at large of the surrounding areas of Ambala and all over the National Highway. Discussions had been held with the farmer's organizations by the law enforcement authorities to remove the dharna from the National Highway and to shift the protest/camping at the place designated by the local administrations and therefore, barricading had been installed at the Shambhu Border to stop the farmers from moving forward. Justification is that there being likelihood of tension and obstruction, sabotage of public or

private property, the same had been done. Directions had been prayed to be issued by this Court to the Farmer's Unions and their leaders to get cleared the National Highways blocked by the agitators and further to shift the protest/camping at the place designated by the local administration.

Similar affidavit has also been filed by Shri Varun Sharma, IPS, Senior Superintendent of Police, District Patiala dated 08.07.2024 wherein it has also been mentioned that in compliance of the order dated 28.05.2024, the case property of FIR No.41 dated 28.02.2024 under Sections 302, 114, IPC, Police Station Patran, District Patiala which had been taken into the police possession during the post-mortem examination of the deceased-Subh Karan Singh has been deposited in the office of Central Forensic Science Laboratory, Sector 36, Chandigarh. It has further been mentioned that the farmer unions had declared to proceed towards Delhi on 13.02.2024 and on 10.02.2024, the State of Haryana had blocked the Ambala-Rajpura Highway by erecting concrete structures and installation of heavy barricading and that around 400-500 trolleys and 50-60 other vehicles with a gathering of around 500 protesting farmers were still at the site. The four alternate routes given from Rajpura to Haryana have been mentioned. It is submitted that no obstruction, impediment or structure has been erected by the State of Punjab. The factum of the meetings between the agitating unions and the Government departments has been mentioned apart from the fact that the Punjab administration would also continuously engage the farmer unions to resolve the issue.

The communication dated 21.07.2024 from the Director, FSL has also been received whereby the case property in the FIR as deposited by the State of Punjab has been duly examined. The expert report dated 28.06.2024 which was for the purposes of finding out regarding the type of weapon and bullet/pellet which was found on the body of the deceased-Subh Karan has

been authored by Pankaj Verma, Scientist (Ballistics) of CFSL. The report would go on to show that the pellets under reference were found to have been fired through shotgun and correspond to size '1' pellets of shotgun cartridges. The piece of skin and hair strands under reference have been examined chemically for the presence of firing discharge residues which were duly detected.

The said report thus settles some controversy regarding the manner in which the deceased met his end. We thus nominate Shri Satish Balan, IPS, Commissioner of Police, Jhajjar to investigate into the said FIR keeping in view the observations which have come from the Committee that Subh Karan was standing within the revenue estate of Village Data Singh Wala District Jind when he was hit by the said bullets at NH-44 and thus the State of Haryana would have jurisdiction to investigate into the cause of death.

We have also examined the site-plan submitted by Mr.Sabherwal, on behalf of the State of Haryana pertaining to the closure at Shambhu Border. It is apparent that the NH-44 leading to State of Haryana into the State of Punjab is apparently blocked due to the preventive measures taken by the State of Haryana. The same is leading to lot of inconvenience as NH-44 is the lifeline for the State of Punjab as the main traffic coming from Delhi flows to the State of Punjab from this Highway and further leading to the State of Jammu & Kashmir. The diversion which have thus been made to avoid the blockage apparently is causing great inconvenience to the general public which would also be clear from the affidavits filed by the States' officials themselves, apart from the daily commuters who have to take diversions of at least over 10 kms on daily basis.

Thus, there is no free flow even to the transport vehicles or the buses and the diversion can only be used by persons who are using private transport and thus general public has been put to major inconvenience. As noticed, the number of protestors has now dwindled to only 400-500 as admitted by the States as in the earlier orders, we had not directed opening of the Highways since the situation at that time due to gathering at Shambhu Border of 13000-15000 was tense, as per the order dated 20.02.2024.

It has also been brought to our notice that a similar entry point for the State of Punjab into Haryana and the barricade at Khanauri Border, District Sangrur, continues to be blocked. Thus, it is apparent that the lifelines of the State of Punjab are blocked on account of mere apprehension and the cause has dwindled. In such circumstance, we are of the considered opinion that it would be in the interest of general public that the State of Haryana now does not continue to block the Highways for all times to come.

Resultantly, we fall back on the judgment of the Apex Court in **Amit Sahni (Shaheen Bagh, IN RE) Vs. Commissioner of Police & others (2020) 10 SCC 439** whereby directions had been issued that any protest which have to be take place should be held at the demarcated place. In the said case, the Apex Court had noticed that on account of a Legislation in Delhi and different parts of the country, protests were taking place and the obstruction to traffic, danger to human safety or disturbance to public tranquility had to be kept in mind by the authorities, but it could not be to the extent of holding of public meetings and demonstrations. The authorities were accordingly directed to formulate proper and requisite guidelines but blockage of public way which causes great inconvenience to the general public were not liable to be accepted.

Accordingly, on experimental basis, we direct the State of Haryana that at least the barricade at Shambhu Border should be opened up within a week so that general public is not put to inconvenience. It is also open to the State of Haryana to take effective steps to enforce the law and order against the protestors if they do not remain within their limits which have been set down by the State. Similarly, we also direct that all the Kisan Unions who have taken part in the agitation and chosen not to come forth to contest also to maintain law and order. Similarly, the State of Punjab shall also ensure that the demonstrators gathered in their territory are also duly controlled as and when the situation so requires. Both the States shall endeavor to ensure that the Highway at Shambhu Border is restored to its original glory and open to one and all and that the law and order is maintained for the convenience of the public. It is made clear that the State of Punjab shall also remove any obstruction(s) on the Highway to ensure free flow of traffic.

The original report, which has been opened in the Court is resealed along with the case property and the same be retained by the Registrar (Judicial) after retaining a photocopy of the report. It is open to the duly nominated officer to collect the case property from the said office.

Let status report of the Committee constituted be also filed on the next date of hearing, i.e. 07.08.2024.

Photocopy of this order be placed on the record of each connected case.

**(G.S. SANDHAWALIA)**  
**JUDGE**

**July 10, 2024**  
*Sailesh*

**(VIKAS BAHL)**  
**JUDGE**