



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Reserved on: 05th September, 2023
Pronounced on: 15th September, 2023

+ **W.P.(C) 11740/2023 & CM APPL. 45840/2023, CM APPL. 45841/2023**

SIDHARTHA EXTENSION POCKET C RESIDENTS WELFARE ASSOCIATION & ANR. Petitioners

Through: Mr. Kirti Uppal, Sr. Advocate with Mr. Nalin Tripathi and Mr. Nischal Tripathi, Advocates.

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Piyush Beriwal, Ms. Anandita Aggarwal and Ms. Disha Chaudhary, Advocates.

Mr. Siddharth R. Gupta, Advocates.

Mr. Sanjay Katyal, SC, DDA with Mr. Nihal Singh, Advocates.

Ms. Beenshaw N. Soni, SC, MCD with Ms. Mansi Jain and Ms. Ann Joseph, Advocates.

Mr. Rajesh Katyal, Standing Counsel with Ms. Parina Katyal, Advocate for R-3.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJEEV NARULA

J U D G M E N T

SANJEEV NARULA, J.

1. Voicing the collective concerns of the residents of Pocket C, Siddhartha Extension, New Delhi, their Resident Welfare Association, and Senior Citizens Welfare Forum have brought forth the instant Public Interest



Litigation. At the core of their grievance, lies the decision-making process surrounding the route alignment of the Delhi-Meerut Regional Rapid Transport System [“RRTS”]. Designed as a semi high-speed rail corridor, the RRTS aims to establish connectivity between Delhi, Ghaziabad, and Meerut. The Petitioners argue that authorities’ decision to abandon the initial route plan, referred to as Option 1, in favour of an alternate route – Option 3, is arbitrary, lacks proper justification, and poses adverse consequences for the well-being and quality of life of the residents of Siddhartha Extension.

The Petitioners’ grievance

2. Mr. Kirti Uppal, Senior Counsel, presented the following arguments on Petitioners’ behalf:

2.1. The Petitioners’ opposition is not against the public project itself, which is ostensibly designed to serve the greater good. Rather, they are aggrieved with the deviation from originally planned route, which had also been endorsed by Respondent No. 1 [Ministry of Railways, Union of India], and did not include Siddhartha Extension in the Delhi-Ghaziabad-Meerut RRTS alignment. Respondent No. 3 – the National Capital Region Transport Corporation [“NCRTC”], has unilaterally altered this plan to include a viaduct that would pass directly through Siddhartha Extension, connecting the stabling yard at Jangpura, New Delhi. This new route has been adopted without the requisite approval from Respondent No. 1.

2.2. NCRTC, as the agency responsible for executing the project, owes a duty of transparency to the Project Affected Families. Despite this obligation, they have failed to disseminate any information pertaining to the revised plan to the affected residents. Compelled by this lack of



communication, the Petitioners resorted to filing a request under the Right to Information Act, 2005 [“RTI”]. The response to the RTI request revealed that there is no recorded evidence indicating the rationale for NCRTC to opt for Option 3, in place of Option 1, or whether Respondent No. 1 ever granted an approval for this substantive change in the project’s alignment.

2.3. The RTI response merely cites techno-commercial infeasibility for preferring Option 3. However, Option 1, which avoids traversing Pocket C of Siddhartha Extension, is more economical. According to the cost comparison of the alternates, Option 1, with a span of 675 meters, comes with an estimated cost of Rs. 7872 lakhs. In contrast, Option 3, covering a shorter distance of 565 meters, is estimated to cost Rs. 4365 lakhs. Thus, Option 1 is not only less intrusive to the residential area, but also more financially prudent, offering substantial savings without compromising the project’s objectives.

2.4. The rights of the colony’s residents to safety, convenience, and property must not be disregarded. Invoking Article 300A of the Constitution of India, 1950, Mr. Uppal asserted that residents have a protected legal right to their properties. As such, NCRTC should be precluded from encroaching upon these rights, without adhering to the due process of law. This stance is in keeping with the broader principle that even public projects must respect individual rights and liberties.

2.5. Financial considerations aside, Option 1 is still the most viable route for the RRTS. While this option may be nearly Rs. 35 crores more expensive than the alternatives, it offers the distinct advantage of not displacing residents or disrupting the planned development of Delhi. The extra cost should be weighed against the potential social and human impact, making



Option 1 as the most socially responsible choice.

2.6. Beyond the potential infringement of property rights, if Option 3 is proceeded with, the resultant risks to residents' quality of life and safety, would be manifold. Construction under this plan would inevitably result in noise and air pollution, making daily life intolerable for residents. Additionally, the placement of hazardous infrastructure and heavy machinery in a residential zone would not only pose a safety threat, but would also disrupt essential amenities, such as access roads and parking facilities. Given that a less disruptive and more resident-friendly option exists, the Respondents must be directed to consider designs that minimize these negative impacts.

Submissions on behalf of NCRTC

3. Mr. Rajesh Katyal, counsel for NCRTC, strongly opposed the maintainability of the present petition by raising following counter-arguments:

3.1. The RRTS project is periodically undergoing scrutiny of the Supreme Court in W.P. (C) 13029/1985 titled *M.C. Mehta v. Union of India*. Citing multiple orders passed in the afore-noted case, Mr. Katyal underscored the Supreme Court's recognition of the project's significance and its explicit directives to expedite construction. Any judicial intervention at this juncture could disrupt the project's timeline and set a precedent for future delays.

3.2. On merits, he contended that the impugned decision to forego Option 1 is underpinned by sound and rational reasoning. In the absence of any demonstrable arbitrariness or unreasonableness in the decision-making process, this Court should abstain from entertaining the petition at hand.



Reliance was placed upon *Jayabheri Properties Private Limited Ors. v. State of Andhra Pradesh and Ors.*¹

3.3. Respondent No. 1 has no authority in finalization of the RRTS alignment and thus, no approval was required for modification of proposed routes.

Analysis and findings

The RRTS project

4. The Delhi-Ghaziabad-Meerut RRTS corridor has received government approval through a sanction order dated 07th March, 2019, with a total project cost of approximately Rs. 30,270 crores. Construction work commenced in June 2019 and has been progressing on schedule. The priority section of this corridor is set to be operational by early 2023, while full commissioning is targeted for 2025. Importantly, the project is substantially funded to approximately 60% of the total cost. Currently, the NCRTC has mobilized a workforce of over 14,000 professionals, who are diligently working around the clock to ensure timely completion. The RRTS corridor is not merely a transport project, but also a significant initiative in environmental sustainability. According to the Detailed Project Report for the RRTS corridor, it is estimated that the system will reduce 60,000 tonnes of particulate matter, 4,75,000 tonnes of nitrogen oxides, 8,00,000 tonnes of hydrocarbons and carbon monoxide, annually. Moreover, the RRTS is expected to contribute significantly to reducing pollution levels by augmenting the modal public transportation share, thereby decreasing the number of vehicles on the roads. Additionally, the efficient electric

¹ (2010) 5 SCC 590.



operation of the RRTS will further reduce both air and noise pollution.

Thorough evaluation by a team of experts

5. NCRTC's deliberations on feasibility of the proposed alignment options are as follows:

“ *Table 3: Comparison of Alignment options for connecting line (viaduct) from Sarai Kale Khan Station to Jangpura Stabling Yard* ”

<i>Main Feature</i>	<i>Merits</i>	<i>Demerits</i>	<i>Final Decision</i>	<i>Reason for acceptance/ Rejection</i>
<i>Alignment Option-1</i>				
<i>By passing Siddhartha Extension Colony</i>	<i>Siddharth extension colony is not getting affected</i>	<p><i>This Alignment will have following disadvantages/ technical issues:</i></p> <p><u>50 m span over Barapulla flyover is having sharp horizontal curve of 145 m. As per SoD the minimum radius of horizontal curve for the depot/stabling yard should not be less than 300m. Therefore, the alignment is technically not feasible.</u></p> <p><u>Further, the alignment will have a 122 m span viaduct with 65-degree skew angle at railway crossing. Out of 122 m span, 50 m length is on curve of 150m radius and 72 m length is straight. Due to space constraint, launching and movement of construction machinery and materials, 122 m single span viaduct is not possible.</u></p> <p><i>The feasibility of construction of an intermediate pier in the space available between the running tracks is also explored and found not feasible due to (i) OHE</i></p>	<i>Not recommended</i>	<i>The alignment is costlier, difficult to construct and technically not feasible. Therefore, cannot be selected.</i>



		<p>traction lines of 25 KV for Delhi Agra main line is a hinderance in mobilization of construction machinery in the intermediate space</p> <p>(ii) Construction will require block periods and shutdowns which will not permitted by railway.</p> <p><u>This alignment will be costlier due to additional requirement of 101 m span of viaduct on this alignment which can be avoided by choosing option II alignment.</u></p> <p>Parapet of RRTS viaduct is at a close proximity of 3m from G+4 building (near Barapulla Flyover).</p>		
Alignment Option-2				
Inside Siddharth Extension colony affecting 24 no Flats	Geometry of alignment is made smooth	<p>24 no Flats inside Siddharth extension colony is getting affected.</p> <p>Alignment inside Siddharth extension colony is having horizontal curve of radius 702.25 m. The chances of wear and tear increase with reduction of radius.</p>	<p>Earlier recommended.</p> <p>It has been further improvised for option- III.</p>	<p>The radius of curve is 702.5 m which is more than compared to minimum technical requirement of 300m. 24 Numbers of flats would be affected inside Siddharth Extension which will have higher cost of compensation as well as higher number of displacements. Hence not selected.</p>
Alignment Option-3				
Inside Siddharth Extension colony affecting 8 numbers of Flats	Number of affected flats are reduced to 8 number from 24 numbers. Thus, 16 number affected flats	8 numbers of Flats inside Siddharth extension colony is getting affected	Recommended	<u>The radius of curve is 1500m which will ease out the vibration and noise. At the same time, it will affect only 8 no. of flats inside Siddharth</u>



	<p><i>are being saved inside Siddharth Extension.</i></p> <p><i>Geometry of alignment is improvised to make it further smooth.</i></p>			<p><u><i>Extension which will have lower cost of compensation, lesser pollution and lower number of displacements. Hence found most suitable and selected for construction.</i></u></p>
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[Emphasis Supplied]

6. The potential alignment options for the concerned viaduct propose the following: (a) bypassing Pocket C of Siddhartha Extension (Option 1), or (b) running through Pocket C of Siddhartha Extension, impacting 24 flats (Option 2), or (c) cutting through Siddharth Extension colony and affecting 8 flats. As can be seen from the above excerpt, these alignment options for the RRTS have undergone rigorous evaluation process by a team of domain experts. As per their evaluation, Option 3 not only minimizes the number of flats affected, but also presents a cost-effective approach when compared to Options 1 and 2. Importantly, the positioning of pillars in Option 3 has been carefully planned to ensure non-interference with roadways or other easement rights like parking and free spaces. It also minimizes the impact on local residents by affecting the least number of flats, and offers the most technically feasible and economically prudent route. Given the considerations outlined above, it is clear that NCRTC's decision to forego Option 1 is anchored in valid technical and social considerations. The chosen alignment is not an arbitrary decision, but one steeped in technical viability, cost-efficiency, and broader societal gains.



Public interest

7. Public interest stands at the forefront of this project, given its significant benefits such as reducing air pollution, alleviating traffic congestion, and offering a more efficient transportation system. Additionally, the project promises substantial environmental benefits, as indicated by the Detailed Project Report, including significant reductions in annual emission rates of particulate matter, nitrogen oxide, hydrocarbons, and carbon monoxide. Thus, in the act of balancing individual property rights and overarching public interest, the latter must take precedence. The scale tips in favour of a solution that serves the larger community, and ensures the most efficient use of public resources.

Safety measures

8. It is also worth noting that NCRTC is not a novice in the field, but is a specialized government entity with extensive experience in executing complex and heavy infrastructure projects. They have a robust safety mechanism in place to monitor, supervise, and direct construction activities. This adds an additional layer of assurance that construction will be conducted in a manner that prioritizes both, safety and environmental concerns. NCRTC has demonstrated a commitment to mitigating the impact of construction on the well-being of Siddhartha Extension residents; they have devised a comprehensive approach to construction that would ensure speed and safety. The construction within the society's boundaries is scheduled with additional resources to ensure its expeditious completion. Before the initiation of construction activities, proper road diversions will be



established and managed by trained and experienced traffic marshals. This will separate construction-related vehicular activity from general traffic, thereby reducing the likelihood of congestion and accidents. During the construction phase, stringent safety measures will be in place: the worksite will be fully enclosed by high barricades and will be monitored by security personnel to restrict unauthorized entry. Upon completion of the construction, NCRTC has committed to restoring the site to its original state, supplemented by modern amenities for the residents. This restoration will take place before the site is handed back to the respective governing agency.

9. Therefore, NCRTC has strategically planned allocation of resources to expedite the completion of the project as swiftly as possible. These are not merely preventive measures, but a proactive strategy aimed at safeguarding the general public from construction-related hazards. In sum, these measures demonstrate NCRTC's conscientious approach to balancing the imperatives of public infrastructure development with the everyday lives and concerns of affected residents.

10. Dismissed, along with pending applications.

SANJEEV NARULA, J

SATISH CHANDRA SHARMA, CJ

SEPTEMBER 15, 2023/as