

MCC No.2795/2006, W.P. No.13467/2011, 9741/2012, 17570/2013, 20973/2013, 22306/2013, 1102/2014, 1106/2014, 1433/2014, 1452/2014, 4230/2014, 6537/2015, 6886/2015, 10692/2015, 2139/2016

14.03.2016

Shri Rajendra Tiwari, Senior Advocate appears as *amicus curiae* assisted by Shri R.N. Tripathi and Shri T.K. Khadka, Advocates.

Shri S.D. Mishra, Advocate for the petitioner in W.P. No.10692/2015.

Shri Mohan Sausarkar and Shri K.N. Pethiya, Advocates for the N.H.A.I.

Shri Samdarshi Tiwari, Dy. Advocate General for the respondents/State.

Shri Himanshu Mishra, Advocate for the respondent No.11 in W.P. No.1433/2014 and W.P. No.1452/2011.

Heard counsel for the parties.

These matters pertain to issue of National Highway construction and maintenance in the concerned segments within the State of Madhya Pradesh.

Broadly, two issues will have to be addressed in these matters. One is about incomplete construction work or in some cases construction of the proposed work, has not been started such as expansion of road as four-lane road. In some cases, the overlapping question regarding maintenance of roads already constructed has also been raised.

On the previous date of hearing, we had requested Shri R.N. Tripathi, Advocate to assist the learned *Amicus Curiae*.

He has not only prepared comprehensive chart indicating the position segment-wise, but, also produced photographs taken by him personally on 12th March, 2016 in respect of National Highway No.7 from Km. 474 to Km. 542 Lakhnadone - Jabalpur section. Copy of the said photographs are taken on record. The road condition, as can be noticed from the photographs appears to be alarming. However, we find that affidavit has been filed by the Authorized Officer of National Highway Authority of India, which gives a completely contrary position. It states that the roads already constructed are being maintained by the respective Contractors properly and that is being monitored by the Authority periodically.

In view of this discrepancy, the Officer, who filed affidavit owes explanation to the Court as to why such affidavit is filed, which is contrary to the ground reality. Besides explaining that position, we would appreciate if the National Highway Authority of India as well as the State Government produces any Regulation or Instructions issued to its Officers for method of monitoring the road conditions. The procedure, which is followed for monitoring road conditions, may have to be revisited if the factual position discerned from photographs, is to be accepted. The National Highway Authority of India as well as the State Government is directed to produce the Regulations/Instructions issued to its Officers for verifying the road conditions from time to time.

Needless to observe that periodical monitoring of road condition and in particular about the proper maintenance is indispensable. Inasmuch as, the Contractors who have constructed the roads either on the basis of work order issued by the Government Department or as under PPP model are commensurately paid and including by permitting them to collect toll in the concerned segment. That means that they are unjustly benefited by not only collecting toll on the assumption that the roads are properly maintained. But, at the same time, the common man and public at large is inconvenienced because of damaged road condition not only by way of spending more time in traveling but also incurring cost for maintenance of their vehicles operated by them in the concerned segment.

List these matters on **21st March, 2016**.

We further direct that on future dates the Officer(s) of N.H.A.I. and P.W.D. must remain present in Court with relevant information.

(A. M. Khanwilkar)
Chief Justice

(Sanjay Yadav)
Judge