

**HIMACHAL PRADESH
PUBLIC WORKS DEPARTMENT**

No. PW/NHN/WA-1/FCA-09/2022-23- 12224

Dated: 19/11/2022

To

The Divisional Forest Officer,
Nahan Forest Division,
District Sirmaur, Nahan

Subject:

**Diversion of 0.327 ha forest land in favour of HPPWD for the construction of link road from village Bhogpur Simbalwala km.0/0 to 3/440 (portion 1/730 to 2/120 and 3/285 to 3.440), within the jurisdiction of Nahan Forest Division Distt. Sirmaur Himachal Pradesh-Regarding submission of EDS.
(Online Proposal No. FP/HP/Road/22919/2016).**

Reference:

Letter no: FC/H.P.C./06/29/2021 dated 11.04.2022

Sir,

As per the letter dated 11.04.2022 mentioned under reference, EDS has been received from the Integrated Regional Office, Shimla in which the department/user agency has to submit desired documents. Please find the point wise reply to the EDS:-

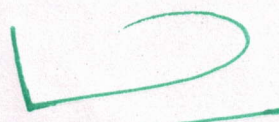
S.N.	Query	Reply
1.	In the Site Inspection report it has been submitted the proposed road has violated the FCA guidelines. As such following clarification/justification may be provided:-	
A	The Action Taken Report against the violators as per Para 1.21 (i) and (ii) of FCA Guidelines may be uploaded in the portal.	The road from Bhogpur Simbalwala km. 0/0 to 3/440 (portion 1/730 to 2/120 and 3/285 to 3.440) was already constructed. The work was started during year 1977 as a footpath track by the Gram Panchayat. The road construction was initially started by the Gram Panchayat in the year 1990 probably in a length of nearly 200 mtrs. & later its formation cutting was completed by the HPPWD during 2001-2002. This case has been listed in approval to cases of construction of road in compliance of directions passed by the Hon'ble High Court H.P. on 08.08.2013 and 05.09.2013 in CWP No. 5600 of 2012 a/w CWP No. 9797/2012 and COPC no. 56/2009. Also Hon'ble High Court of H.P. has given the orders to regularize 2183 roads including this road which have already been constructed in violation of the provisions of FCA, 1980. The list of roads in Nahan Division given by HPPWD to Hon'ble High Court of Himachal Pradesh constructed in violation of FCA, 1980 highlighting the Sr. no. and name of the road of the extant proposal is
B	Action taken by the State Government against the officials concerned for not being able to prevent the use of forest land for non-forestry purpose without prior approval of Govt. of India.	

		attached as Annexure 1. A committee has been formed by the Govt. of Himachal Pradesh as per the notification vide letter no. FFE-B-F-(3)-31/2012 dated 24-10-2013 as instructed by the Hon'ble High Court of H.P. The joint inspection was done by the committee on dated 02-11-2015. The joint inspection report is attached as Annexure 2. An appropriate amount calculated by the Forest department will be paid by the user agency as a penal action for violation.
2.	The clarification/documents regarding the following may also be provided:	
A	Complete legible list of 2183 roads provided by HPPWD to Hon'ble High Court of Himachal Pradesh constructed in violation of FCA, 1980 highlighting the Sr. no. and name of the road of the extant proposal.	The complete list of roads in Nahan Division given by HPPWD to Hon'ble High Court of Himachal Pradesh constructed in violation of FCA, 1980 highlighting the Sr. no. and name of the road of the extant proposal is attached as Annexure 1 .
B	Copies of orders of the Hon'ble High Court of H.P. which clearly finds mention of regularization of 2183 roads which have already been constructed in violation of the provisions of FCA, 1980.	1. The Case no. CWP No. 5600 of 2012 was listed in Hon'ble High Court of H.P. on 08.08.2013 in which Hon'ble High Court of H.P. ordered that "joint meeting to be held between the officials of the concerned departments and Authorities, broad guidelines will be worked out on the basis of which the plan can be taken forward. 2. The "joint meeting was held on 19th August, 2013, in the office of Conservator of Forests (Central), Government of India, Chandigarh" in which it was decided to constitute the committees to carry out the inspection of the roads in accordance with the guidelines worked out in the joint meeting between the officials of Govt. of HP and MoEF&CC, Gol. 3. A committee has been constituted vide Govt. of Himachal Pradesh Department of Forest notification no. FFE-B-F-(3)-31/2012 dated 24.10.2013 in respect of Link road to village Bhogpur Simbhawala on dated 02.11.2015. 4. The case (CWPI No. 91 of 2017) was listed in Hon'ble High Court of H.P. on dated 16.11.2017 in which it was clearly mentioned that approximately 2183 roads have been constructed in the State of Himachal Pradesh in violation of the Forest Conservation Act,

		which is a large number and cannot be overlooked and in CWP No. 5600 of 2012 and COPC no. 56 of 2009, wherein, directions were issued to the State of Himachal Pradesh as well as Ministry of Environment and Forests, Government of India, for inspection of such roads by Committees and thereafter to report the matter to the Northern Regional Officer, Ministry of Environment and Forests, Chandigarh, for consideration of proposal for approval. 5. The notifications and orders are attached as Annexure 3.
3.	The aerial distance of the project from Kalesar WLS has been provided. However, the exact aerial distance of the proposed project from notified or proposed ESZ of Kalesar WLS from competent authority may also be provided.	The exact aerial distance of the proposed project from Kalesar WLS is 22.09 km. Application for obtaining the Certificate has been submitted to DFO Office, Nahan which is attached as Annexure 4.
4.	FRA Certificate has been submitted. However, the records and annexures of consultations and proceedings of FRC and Gram Sabha of all the concerned villages are required to be submitted before Stage-II.	The FRA Certificate with all the records and annexures of consultations and proceedings of FRC and Gram Sabha of all the concerned villages are attached as Annexure 5.

You are, therefore, requested to scrutinize the reply and documents submitted along with reply for further processing.

Encl.:- As Above


 Executive Engineer
 Nahan Division
 HPPWD Nahan

ANNEXURE -1

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MOST URGENT
PERSONAL ATTENTION
(41)

No. PBW(B)E(3)1/2013
Government of Himachal Pradesh
Public Works Department

From The Principal Secretary (PW) to the
Government of Himachal Pradesh.

To The Engineer-in-Chief,
HP PWD, Nirman Bhawan,
Nigam Vihar, Shimla-2

Dated Shimla-171002, the November, 2013.

Subject:- Violation of the provisions of the Forest (Conservation) Act, 1980-
approval to cases of construction of roads in compliance of directions
passed on 8.8.2013 and 5.9.2013 in CWP No. 5600 of 2012 a/w CWP No.
9797/2012 and COPC No. 56/2009-regarding.

Sir,

I am directed to enclose herewith a copy of letter No. 19-156/2013-ROC/766
dated 11-11-2013 received from the Additional Principal Chief Conservator of Forests
(Central), Government of India, Ministry of Environment and Forests, Northern Regional
Office, Chandigarh on the above cited subject and to request you to give suitable directions
to all CEs/SEs to coordinate with the State Forest Department for expediting inspections by
the Committees and submission of their reports to Northern Regional Office, Chandigarh
through the State Government for consideration of the proposals for approval under
intimation to this department at the earliest.

This may treated as most urgent being High Court matter.

Yours faithfully,

(Suneel Sharma)
Joint Secretary (PW) to the
Government of Himachal Pradesh.
22 November, 2013.

Endst. No. As above. Dated Shimla-171002, the
Copy forwarded to:-

1. The Pr. Secretary (Forests) to the Government of Himachal Pradesh for
information.
2. The Principal Chief Conservator of Forests, Tallend, H.P. Shimla-1 alongwith list
of 2183 roads constructed in violation of Forest Act 1980 for taking further
necessary action.
3. The Additional Principal Chief Conservator of Forests (Central), Government of
India, Ministry of Environment and Forests, Northern Regional Office, Bays No.
24 & 25, Sector 31-A, Dakshin Marg, Chandigarh-160030 for information.

(Suneel Sharma)
Joint Secretary (PW) to the
Government of Himachal Pradesh.

PTO

(42)

Speed Post

IMMEDIATE

Endst. No.No.Ft.42-163/2013 (FCA)

Dated Shimla-171001, the

7 DEC 2013

Copy alongwith a copy of letter No. 19-156/2013-ROC/766 dated 11.11.2013 and list of roads constructed in violation of FCA, 1980 is forwarded to all CCFs/CFs(T) in H.P. for information and necessary action. They are requested to co-ordinate with PW Department for expediting inspections by the Committees of the proposals involved in the list of violation. Copy of constitution notifying committees and format of submission of report by the Committes has already been sent to your office vide office endorsement of even number dated 31.10.2013 and 3.12.2013 respectively.

(Wm.) MIS/
Dtg. Insp.
9/11/13

Encls: as above

CF Nahani

Urgent

7-12-2013
Addl.Pr. Chief Conservator of Forests (FCA),
O/o Pr. CCF, H.P. Shimla-1

Encl. No. C-X-19/(G) 17599-03 dt Nahani-16-12-2013

Copy alongwith its enclosure is forwarded to all Dfos in Nahani Circle for information and necessary action.

Encl. A above

C.F. Nahani Circle

Rajgarh

Circle Wise Number of Roads Constructed in Violation of FCA 1980

Shimla Zone	Number of Roads	
	Reported Earlier	Reported Now
3rd Circle Solan	5	66
4th Circle Shimla	30	212
11th Circle Rampur	45	111
12th Circle Nahan	28	28
14th Circle Rohru	32	182
Total of Shimla Zone	140	599
Mandi Zone		
1st Circle Mandi	242	429
6th Circle Kullu	109	119
Jogindernagar Circle	221	287
Total of Mandi Zone	572	835
Hamirpur Zone		
8th Circle Hamirpur	60	133
10th Circle Bilaspur	7	120
15th Circle Una	1	1
Total of Hamirpur Zone	68	254
Kangra Zone at Dharmshala		
5th Circle Palampur	5	127
7th Circle Dalhousie	38	204
9th Circle Nurpur	18	164
Total of Kangra Zone	61	495
Grand Total	841	2183

S.No 416 of list

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Sr. No.	Name of Division	Name of the road	Total length of road (kms)	Starting From (Name)	Present status whether completed or in progress	GPS coordinates at Strategic point			Whether road appeared in list of 116 roads as per Annexure -I	Whether road appeared in list of 61 roads as per Annexure-II	Remarks
						Starting point	End point	Mid point of road length or villages/important location on the road			
1	2	3	4	5	6	7	8	9	10	11	12
399	Paonta	L/R Swar Landashi Katal Kharkri Madhara road Km. 0/0 to 3/420	3.42	Village katal	Completed	30°33' 29.24"	30°33' 13.61"	30°33' 19.81"	No	No	F.C. & C.D Completed Forest case is under preparation in Divisional office.
						77°26' 30.07"	77°25' 45.02"	77°26' 17.92"			
400	Sangrah	Bhajond Ghatlog road km. 0/0 to 10/500	10.50	Bhajond	Completed	77°38' 22.99"	78°38' 35.14"	78°39' 8987"	No	No	Foerst involved in km. 8/0 to 10/500, for which the forest case is under preparation under Divisional office.
						30°73' 73.69	30°70' 45.28	30°71' 31.53			
401	Sangrah	Koti Dhiman to Chow Bogger road	6.71	Koti Dhiman	Completed	77°54' 69.97	77°54' 18.90	77°54' 43.15	No	No	Foerst involved in km. 0/0 to 0/600, for which the forest case is under preparation under Divisional office.
						30°64' 08.13	30°66' 37.85	30°66' 11.13			
402	Sangrah	C/O Dayanoo Pullailani Nainidhar road km. 12/0 to 30/0	18.00	Kajwa	Completed	77°59' 23.37	77°61' 71.21	77°60' 01.91	No	No	Foerst involved in km. 12/0 to 15/0 & 21/0 to 27/0, for which the forest case is under preparation under Divisional office.
						30°71' 92.99	30°71' 63.12	30°70' 92.08			
403	Sangrah	Sher Tandula to Pallour road km. 0/0 to 3/0	3.00	Sher Tandula	Completed	77°33' 99.73	77°33' 80.85	77°33' 88.90	No	No	Foerst involved in km. 0/0 to 3/0, for which the forest case is under preparation under Divisional office.
						30°76' 73.58	30°76' 69.15	30°76' 67.86			
404	Sangrah	Kheri to Lana Cheta road km. 8/0 to 27/150	19.15	Pabour	Completed	77°34' 00.06	77°36' 89.84	77°36' 55.72	No	No	Foerst involved in km. 10/0 to 10/800, for which the forest case is under preparation under Divisional office.
						30°76' 74.41	30°80' 79.89	30°77' 72.21			
405	Sangrah	Tonda Sher Tandula road km. 0/0 to 11/0	11.00	Tonda	Completed	77°35' 98.00	77°33' 26.35	77°35' 04.23	No	No	Foerst involved in km. 0/0 to 2/500 & 3/500 to 6/500, for which the forest case is under preparation under Divisional office.
						30°71' 58.86	30°73' 27.44	30°72' 24.53			
406	Nahan	Link road from	3.00	Khajurna	Completed	30°32' 08.06	30°32' 27.73	30°32' 5.8	Yes	No	Road was constructed earlier by

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Sr. No.	Name of Division	Name of the road	Total length of road (kms)	Starting From (Name)	Present status whether completed or in-progress	GPS coordinates at Strategic point			Whether road appeared in list of 116 roads as per Annexure-I	Whether road appeared in list of 61 roads as per Annexure-II	Remarks
						Starting point	End point	Mid point of road length or villages/important location at the road			
1	2	3	4	5	6	7	8	9	10	11	12
		Khajurina to Maloniwala				77°17'46.08	77°19'01.38	77°18'11.61	Yes	No	Panchayat. Improvement was done by PWD in 2003-05 under PMGSY. Forest case has not been prepared.
407	Nahan	Link road Bholion to Haripur via Nalka Smalka road upto Village Nalka.	6.89	Bholion	Completed 2nd phase	30°30'38.94 77°21'29.86	30°29'06.98 77°120'11.63	30°29'47.80 77°22'21.79	Yes Yes	No No	Road was constructed earlier by Block. Improvement was done by PWD in 2003-05 under PMGSY. Forest case has not been prepared for the portion which was previously constructed by block.
408	Nahan	Thana Kasoga to Trimli Dayar road.	15.20	Thana Kasoga	Completed 2nd phase not start	30°33'46.66 77°26'37.07	30°35'55.80 77°26'10.70	30°35'01.61 77°26'40.36	Yes Yes	No No	Road was constructed earlier by Block. Handed over to PWD through PMGSY Improvement & CD work done. Forest case has not been prepared.
409	Nahan	Sanana Ghat Jaincha Majhai Bhalta Mechher road upto village Did Bager	4.50	Sanana Ghat	Completed 2nd phase not start	30°37'35.74 77°25'22.81	30°39'01.12 77°24'53.09	30°38'16.74 77°24'49.91	Yes Yes	No No	Road constructed under PMGSY passes through private land. Forest case has not been prepared.
410	Nahan	Mahipur Sheetla Panar road upto village Dungi Kandyon.	1.80	Mahipur	Completed 2nd phase not start	30°35'59.80 77°25'57.50	30°36'16.49 77°25'21.76	30°36'04.84 77°25'35.89	Yes Yes	No No	0/0 to 1/800 km. road constructed through State Head. Further improvement done through World Bank.
411	Nahan	M/R Shambhuwal to	3.00	Shambhu	Completed	30°31'26.81	30°32'35.34	30°32'28.86	Yes	No	Road stood completed earlier as

(55) 223

Sr. No.	Name of Division	Name of the road	Total length of road (kms)	Starting From (Name)	Present status whether completed or in progress	GPS coordinates at Strategic point			Whether road appeared in list of 118 roads as per Annexure - I	Whether road appeared in list of 118 roads as per Annexure - II	Remarks
						Starting point	End point	Mid point of road length or villages/important location on the road			
1	2	3	4	5	6	7	8	9	10	11	12
		Kun road		wala	2nd phase not start	77°19'17.12	77°20'31.89	77°20'01.68	Yes		same was constructed by Block. B/T was done by PWD through State fund long back from RD 0/0 to 3/0 km. Forest clearance sanction for 3/0 to 7/500 and was constructed through PMGSY.
412	Nahan	C/O Bhogpur Simbalwala km. 0/0 to 3/0	3.00	Bhogpur	In progress	30°34'03.41 77°11'36.20	30°35'11.63 77°10'48.72"	30°34'40.11 77°11'16.69	Yes Yes	No No	Constructed through State Head long back. Minor improvement is in progress
413	Nahan	C/O Bharyan to Nar Notti km. 0/0 to 6/500	6.50	Bharyan	In progress	30°38'49.07 77°22'06.30	30°38'33.33" 77°22'14.53"	30°38'44.28 77°22'05.95	Yes Yes	No No	0/0 to 2/500 km road constructed by PWD 2/500 to 6/500 km road constructed by Block. Forest case has not been prepared.
414	Nahan	C/O Bhagyanghat to Manria Matlana road km 0/0 to 3/0	3.00	Bhagyanghat	In progress	30°41'18.22 77°19'38.88"	30°41'18.67" 77°19'14.15"	30°41'05.03 77°20'16.30"	Yes Yes	No No	0/0 to 3/00 km road was constructed by Block. Further improvement was done by PWD Bhyanbul land through which road crosses.
415		Mahipur Shitla Pannar road from	11.50	Dungi kundiyan	Completed 2nd phase	30°36'16.49 77°25'21.76	30°37'50.48 77°21'47.50	30°37'27.79 77°22'50.61	Yes	No	Road Constructed through World Bank, Total private land.
416	Pachhad	1. Mari Ka Ghat Sultanpur road via Bathul.	12.00	Mari Ka Ghat	Completed	30°51'42.55" 77°21'50.59"	30°57'27.67" 77°22'32.58"	30°56'27.02" 77°22'31.64	No	No	Road has been constructed under PMGSY Phase-I from 0/0 to 16/0 as motrable standred but in lindi stage no land has been transferred in favour of HPPWD by Pvt. Land owner. Hence in lindi stage DPR has not been prepared so far.

construction of link road from village Bhogpur Simbalwala

ANNEXURE -2

**Inspection Report of the Committee Constituted vide Government of Himachal Pradesh
Department of Forest Notification No. FFE-B-F-(3)-31/2012 dated 24-10-2013 in respect of
Link road to village Bhogpur Simbalwala on dated 2-11-2015.**

1. Name of Circle/Distt./Division/Tehsil/Range

Nahan/Sirmour/Nahan/Nahan/Trilokpur.

2. Name of road including Kms. From - to-

Link road to Bhogpur Simbalwala Km.0/0 to 3/440 kms.

3. Total length of road passing through the Forest area and Private area

Total length of the road passing through forest area is 0.545 Kms. and 2.895 kms through private area.

4. Length of the road for which forest land has already been broken/constructed

Total length of road is 3.440Kms & length of road in broken forest land is 0.545 kms.

5. Length of the road and extent (in hac,) passing through forests

Length of road = 0.545 Kms. Extent = 3270 Sq. mtrs or 0.327 Hectares.

6. Date of starting the work

The work was started during year 1977 as foot path track by the Gram Panchayat.

7. Name of organization which constructed the road

The road construction was initially started by the Gram Panchayat in year 1990 probably in a length of nearly 200 mtrs & later its formation construction was completed by the HPPWD during the year 2001 – 2002.

8. For completing the work, whether there is need to use additional forest area or alignment can be changed without further use of forest land

There is no need for additional forest land as road formation construction work has already been completed..

9. If not, total length of the road and forest area required for completing the work (including the forest area used and to be used)

Total length of road = 3.440Kms.

Total length of road passing through forest = 0.545 Kms

Forest Area utilized= 0.327 Hectare. Additional Forest area required= Nil.

10. Details of damages caused to bio-diversity including number of trees felled other than breaking the earth (which is already covered under point 5 above)

As per record available no damages are reported to bio-diversity including trees.

X. y. j. f.
2.11.15

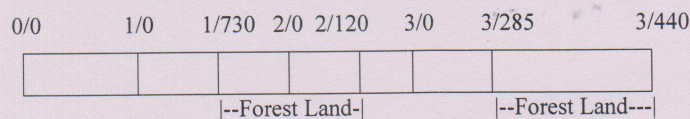
11. Details of soil conservation/engineering works necessary on the upper and lower sides of the road for its strengthening and avoiding landslides

No specific protection work is required on the road for avoiding landslides.

12. Estimated expenditure for carrying out these engineering works

a). Nil.

BAR CHART SHOWING THE FOREST LAND

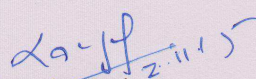


13. Recommendations of the Committee (should include length in Kms, extent of forest land additionally required for completing the work, expenditure to be included on engineering/vegetative works necessary for stabilizing the soil/boulders on upper and lower sides of the road. etc.)

Total length of road is 3.440Kms. and out of this 0.545 Km. passes through forest land.

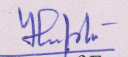
No additional land is required for further construction work beside 0.327 hectare of forest land which has already been utilized.

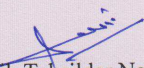
The total cost of DPR is yet to be worked out which shall be evaluated after necessary sanction of forest land diversion case.


Executive Engineer
HP.PWD Division,
Nahan.


Divisional Forest Officer
Forest Division, Nahan


Superintending Engineer,
12th Circle HP.PWD Nahan.


Conservator of Forest
Distt. Sirmour, Nahan.


Naib Tehsildar Nahan
Distt. Sirmour (H.P)

ANNEXURE -3



CWP No. 5600 of 2012 a/w CWP No. 9797 of 2012 & COPC No. 56 of 2009

08.08.2013

Present:

CWP No. 5600 of 2012

Mr. Ajay Sharma, Advocate, for the petitioner.

Mr. Sandeep Sharma, Assistant Solicitor General of India, for respondent No. 1.

Mr. Shrawan Dogra, Advocate General, with Mr. Romesh Verma & Mr. Anup Rattan, Additional Advocate Generals, and Mr. J.K. Verma & Ms. Parul Negi, Deputy Advocate Generals, for respondents No. 2 to 4 & 6 to 8.

Mr. Devender Sharma, Advocate, vice Mr. C.N. Singh, Advocate, for respondent No. 9.

Mr. Arvind Sharma, Advocate, for respondent No. 10.

CWP No. 9797 of 2012

Mr. Bipin C. Negi, Advocate, for the petitioners.

Mr. Sandeep Sharma, Assistant Solicitor General of India, for respondent No. 1.

Mr. Shrawan Dogra, Advocate General, with Mr. Romesh Verma & Mr. Anup Rattan, Additional Advocate Generals, and Mr. J.K. Verma & Ms. Parul Negi, Deputy Advocate Generals, for respondents No. 2 to 6.

Mr. Rajnish Maniktala, Advocate, for respondent No. 8.

COPC No. 56 of 2009

Mr. Ajay Mohan Goel, Advocate, for the petitioner.

Mr. Sandeep Sharma, Assistant Solicitor General of India, for Union of India.

Mr. Shrawan Dogra, Advocate General, with Mr. Romesh Verma & Mr. Anup Rattan, Additional Advocate Generals, and Mr. J.K. Verma & Ms. Parul Negi, Deputy Advocate Generals, for respondents-State.

We have heard counsel for the parties.

2. The learned Advocate General, on instructions, submits that the State is more than keen to find out solution to the impending problem. The State is not only willing to pay compensatory costs, as may be determined by the Appropriate Authority, but is, on its own, willing to provide more infrastructure and facilities to strengthen the

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environmental cause in the concerned region. Those logistics can be worked out only after the decision of the Appropriate Authority with regard to the 841 road projects in question.

3. The learned Assistant Solicitor General of India submits that the MoEF, Government of India, has no objection to examine the proposal initiated by the State Government, but the officials of the said Ministry are finding difficulty in working out the final arrangement and, more particularly, because of the directions given by the learned Single Judge of this Court in order, dated 28th August, 2009, in COPC No. 56 of 2009.

4. Keeping in mind this grievance of the respondent-Authorities, we thought it appropriate to direct the Registry to circulate the papers concerning COPC No. 56 of 2009. Although, the order has not been challenged by any Authority or party to the proceedings, in the peculiar facts of the present case, it has become essential to consider whether the direction contained in the said order should be kept in abeyance or otherwise.

5. In our considered opinion, if the direction contained in COPC No. 56 of 2009 is required to be complied by the concerned Authority and, in particular, MoEF, it will not be possible for the MoEF to work on the proposal to be submitted by the State Government, which, as observed in our previous order, is in larger public interest. The issue regarding action to be taken against the erring officials of the concerned departments and Ministry can always be redressed at the appropriate stage, but consideration of the proposal submitted by

the State Government cannot and should not brook delay. The issue regarding ratification of the action of the State Government regarding construction of 841 road projects across the State of Himachal Pradesh will have to be resolved in the first place in conformity with the requirement of law, which the State Government as well as the MoEF has assured the Court to consider the same in right earnest.

6. In these peculiar facts, we are inclined to hold that it is but appropriate that the direction given in COPC No. 56 of 2009, in order dated 28th August, 2009, should be kept in abeyance to enable the concerned departments to take a final decision on the proposal submitted by the State Government.

7. Counsel appearing for the department as well as the State Government have submitted that the Authorities would report about the possibility and feasibility of granting approval or otherwise on the proposal of the State before the next date of hearing, which can be scheduled after three weeks. In the circumstances, hearing of these matters is deferred till **5th September, 2013**, to enable the MoEF, Government of India and the State Government to work out a holistic plan for not only restoration of the environment, besides quantifying the compensatory costs to be paid by the State Government. That will have to be in conformity with the provisions of law and uninfluenced by the observations in the order dated 28th August, 2009 in COPC No. 56 of 2009, referred to above.

8. The learned Advocate General assures the Court that in

-: 4 :-

the joint meeting to be held between the officials of the concerned departments and Authorities, broad guidelines will be worked out on the basis of which the plan can be taken forward. We place this submission on record. The joint meeting to be convened on 19th August, 2013, in the office of Conservator of Forests (Central), Government of India, Chandigarh, at 11.00 a.m.

Copy dasti.

(A.M. Khanwilkar)
Chief Justice

(Kuldip Singh)
Judge

August 8, 2013
(rajni / sl)



**IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA.**

COPC No.56/2009

Reserved on:17.8.2009

Decided on:28.8.2009

Kuldip Singh Chauhan.

...Petitioner.

Versus

Balbir Thakur and others.

... Respondents.

Coram:

Hon'ble Mr. Justice Rajiv Sharma, Judge.

Whether approved for reporting?¹ Yes.

For the petitioner : Mr. Ajay Mohan Goel, Advocate.

**For the Respondents: Mr. B.M. Chauhan, Advocate for respondent
No.1.**

**Mr. R.K. Gautam, Senior Advocate with
Mr. Sandeep Kumar Pandey, Advocate for
respondent No.2.**

**Mr. Lokender Thakur, Advocate for respondent
No.3.**

**Mr. R.K. Sharma, Sr. Addl. A.G. with
Mr. Anil Jaswal, Deputy Advocate General for
respondents No.4 and 5.**

**Mr. Rajeev Jiwan, Advocate vice
Mr. Sandeep Sharma, Assistant Solicitor General
of India for respondents No. 6 and 7.**

¹ Whether reporters of the local papers may be allowed to see the judgment? Yes.

Rajiv Sharma, Judge .

The present petition has been preferred for initiating action against respondents No. 1 to 3 for the violation of the directions issued by this Court in CWP No. 1358/2001.

The precise case of the petitioner is that respondents No.1 to 3 are instrumental in construction of road in Sharoli Jungle without seeking the mandatory permission under the provisions of the Forest (Conservation) Act, 1980 and also for felling of trees despite the directions issued by this Court on 29.5.2007 whereby green felling was prohibited in the entire State of Himachal Pradesh. Respondent No.1 has filed the reply. He has denied his involvement in illicit felling of trees in Sharoli Jundge (Mandal Beat). Respondent No.2 has also filed reply to the petition. He has admitted in his reply that certain people of surrounding villages, including respondent No.1 started construction of a road in Mandal Beat and as many as 29 kail saplings were damaged. Accordingly, the damage report was prepared and that a sum of Rs. 23,925/- was recovered towards damages. Accordingly, the JCB, which was in possession of the Forest Department, was released after the receipt of fine and compensation. Respondent No.3 also filed reply. According to him, the tenders were floated on 10.4.2008 for the work in question i.e. C/O link road from Bakan Nallah to village Kohali. These were to be opened on 25.5.2008. However, the same stood cancelled due to technical reasons on 17.5.2008. The petitioner has also filed supplementary affidavit whereby he has given the details of five link roads, which were constructed without the permission under the Forest

(Conservation) Act, 1980. The 'no objection certificates' as per the contents of the supplementary affidavit had been issued by the Range Forest Officer, Sarswati Nagar for construction of these roads. The 'no objection certificates' are marked as Annexures PC-1 to PC-5. The petitioner has also placed on record the photographs reflecting the damage caused to the forest wealth while undertaking the construction of the roads in question. The petitioner has reiterated in the rejoinder filed to the reply filed by respondent No.1 that the road was constructed in Panchayat, Mandal. According to the contents of rejoinder, the illicit felling has taken place in forest Sharoli and Dulu.

What emerges from the pleadings of the parties is that the road in question was constructed despite the mandatory directions issued by this Court from time to time in CWP No. 1358/2001. An LPA was preferred against the judgment of this Court dated 23.11.2007. The Division Bench of this Court upheld the judgment except that respondent-State and the Corporation were permitted to remove fallen and diseased trees. Respondent No.1 though has denied his involvement in the illicit felling of trees, but it is evident from the damage report placed on record that he was involved in illicit felling of trees and he has paid the damages amounting to Rs. 23,925/-. Respondent No.2 has also admitted in the reply that respondent No.1 along with other persons was involved in illicit felling of trees. Respondent No.1 is the Pradhan of the Gram Panchayat, Mandal. Respondent No.2 is the custodian of the forest wealth in his area. He was supposed to be very prompt to take action against the persons who were involved in felling of trees. In the supplementary affidavit filed by the Additional Chief Secretary (Forest), it has come that

respondent No.2 was not involved in any manner since his subordinates have issued the 'no objection certificates'. According to the contents of the supplementary affidavit, the officers, namely Pratap Singh, Jia Lal, Hiteshwar and Surinder Kumar were involved in issuing the 'no objection certificates' and against them action has been initiated.

The Court after taking into consideration the material placed on record has added the Principal Secretary (PW) and Principal Secretary (Forests) to the Government of Himachal Pradesh vide order dated 10.7.2009. The Court had issued the following directions to the newly added respondents:

- i) **Whether necessary permission under the Forest (conservation) Act, 1980 was ever sought and granted by the authorities while initiating the construction work of the link roads mentioned in the supplementary affidavit;**
- ii) **In case no permission was ever granted by the authorities under the Forest (Conservation) Act, 1980, why the Forest Range Officer, Sarswati Nagar has issued 'no objection certificate' and what action, including disciplinary action has been taken against him;**
- iii) **Whether the construction has been carried of the roads in question through the agency of Public Works Department or by the contractor. In case the construction has been carried by the agency of the Public Works Department, the names of the officers, who have undertaken the construction of the link roads without the permission under the Forest (Conservation) Act, 1980 are to be disclosed giving their rank as well. In case the construction has been**

undertaken by the contractor(s) his/their name(s) be disclosed;

- iv) The Principal Secretary (PW) and Principal Secretary (Forest) shall give the details of all the roads and link roads which have been constructed through the State of Himachal Pradesh without the necessary permission contemplated under the Forest (Conservation) Act, 1980;
- v) The Principal Secretary (Forest) is further directed to explain the manner in which the trees, which have been illicitly felled while undertaking the construction of the road, have been disposed of.”

Respondents No.4 and 5 filed supplementary affidavit as directed by this Court vide orders dated 10.7.2009 and 28.7.2009. The Principal Secretary (PW) has undertaken on behalf of the State of Government by way of this affidavit that the Public Works Department/State shall not undertake construction of any road in violation of the Forest (Conservation) Act, 1980 and the action shall be initiated as per law against the defaulters/erring officers/officials, who have constructed the roads in violation of the Forest (Conservation) Act, 1980. It will be apt to reproduce paras 4 and 5 of the affidavit filed by the Principal Secretary (PW) on 28.7.2009:

“4. That as far as the position with regard to necessary permission contemplated under the Forest (Conservation) Act, 1980 is concerned, the deponent on behalf of Public Works Department/State undertakes that henceforth no road shall be constructed by the Public Works Department in violation of Forest (Conservation) Act, 1980.

5. That with regard to violation if any found to have been committed of Forest (Conservation) Act, 1980 while constructing public roads by the Public Works Department, the Deponent undertakes that action as provided under the law shall be initiated against the defaulting/erring officers/officials who have constructed the said road(s) in violation of Forest (Conservation) Act.”

Respondent No.5 also filed supplementary affidavit on 29.7.2009. It has been admitted by respondent No.5 that no permission under the Forest (Conservation) Act, 1980 was sought for the construction of the link roads mentioned in the affidavit filed by the petitioner. It has come in this affidavit that the Deputy Ranger, who was holding the charge of Sarswati Nagar and Sh. Jai Prakash, Deputy Ranger, Sarachali Block have issued 'no objection certificates' at their own level without the information of the Divisional Forest Officer for the construction of the roads mentioned in the supplementary affidavit of the petitioner. It has come in the affidavit that 80 roads/link roads were constructed throughout the State of Himachal Pradesh without necessary permission under the Forest (Conservation) Act, 1980. Out of these 80 roads, no permission has been sought in respect of 67 roads/link roads whereas 13 roads forest land diversion of which was either under process or had been accorded in principal approval by the Government of India had been constructed without waiting final approval of the proposal from the Government of India under the Forest (Conservation) Act, 1980. The Additional Chief Secretary (Forests) filed supplementary affidavit on the basis of directions issued on 29.7.2009. In this affidavit, the

number of roads constructed without the permission has gone up from 80 to 116. The Principal Secretary (PW) also filed the affidavit in sequel to order dated 29.7.2009. In his affidavit, it is stated that 47 roads alleged to have been constructed by the Himachal Pradesh Public Works Department in violation of the Forest (Conservation) Act, 1980. The deponent had sought for additional four weeks time to supply the information. The Principal Secretary (PW) filed the affidavit on 11.8.2009. In this affidavit, the numbers have increased to 75 roads, which were constructed by the Public Works Department.

The Court issued detailed directions to the respondents i.e. respondents No.4 and 5 on 6.8.2009 to supply the complete information of the roads which were constructed in violation of the Forest (Conservation) Act, 1980 and the proposed action against the defaulters. The Additional Chief Secretary (Forests) filed an affidavit on 11.8.2009. It was for the first time that in this affidavit it has come that the Deputy Commissioner has been requested to initiate the action against the Patwaris, who had issued 'no objection certificates' in violation of law. The matter was also referred to the Principal Secretary (RD) to the Government of Himachal Pradesh for initiating action against the Block Development Officer, Jubbal for construction of roads undertaken by him in violation of the Forest (Conservation) Act, 1980.

A bare perusal of the affidavit filed by the Additional Chief Secretary (Forests) dated 16.8.2009 reveals that 98 roads have been constructed in the forest areas without seeking the permission under the Forest (Conservation) Act, 1980. It is a startling figure. The details of these roads are placed on record vide Annexure A-I with the

supplementary affidavit dated 16.8.2009. Similarly, the construction of the roads has been undertaken by the authorities in which forest land diversion proposal was either under process or principal approval has been accorded but the roads were constructed without waiting for the final approval from the Government of India. This information has been placed on record vide Annexure A-II. The perusal of this Annexure A-II reveals that in the process of construction of these 18 roads, in all, 1513 trees have been felled by the authorities without the prior permission of the competent authorities under the Forest (Conservation) Act, 1980.

It is evident from the information supplied by respondent No.4 and 5 that 116 roads have been constructed in the State of Himachal Pradesh without seeking mandatory permission under the Forest (Conservation) Act, 1980. Out of them, 75 roads have been constructed by the Himachal Pradesh Public Works Department under the supervision of the Block Development Officers after sanctioning of the amounts by the respective Deputy Commissioners. The Pradhans of Gram Panchayats like respondent No.1 are also instrumental in construction of roads in negation of rule of law. It was imperative for the Deputy Commissioners and other agencies of the State to ensure that no road is constructed without permission from the Government of India under the Forest (Conservation) Act, 1980. The officers/officials of the Forests Department, Himachal Public Works Department and the Contractors to whom the work was assigned are guilty of undertaking the construction of roads despite the mandatory directions issued by this Court from time to time and also in violation of the Forest (Conservation) Act, 1980. Respondent No.1, as discussed

hereinabove, has indulged in illicit felling of trees which resulted in issuance of damage report. As sum of Rs. 23,925/- stood recovered from him. Respondent No.2 was not involved directly in granting the 'no objection certificate' as per the supplementary affidavit filed by the Principal Secretary (Forests). The 'no objection certificates' have been issued by the persons, who are not authorized to do so as per the contents of the supplementary affidavit filed by respondents No. 4 and 5 by the Patwaris, Deputy Rangers, Forest Guards etc. The stern action is to be taken against those persons, who have failed to abide the directions issued by this Court punctually and also violated the Forest (Conservation) Act, 1980.

The Principal Secretary (PW) has in a very bold manner undertaken to take action against the defaulting officers/officials. He has also undertaken that the State Government and Public Works Department shall not construct any road in violation of the Forest (Conservation) Act, 1980. The action has also been initiated by the Forests Department by punishing officers involved in illicit felling of trees in Sharoli and Dulu forest areas. In this case the action is also to be taken against the Block Development Officers, who have undertaken the construction of the roads on the basis of various schemes floated by the Centre/State Governments after the money was sanctioned by the respective Deputy Commissioners in violation of the mandatory provisions of the Forest (Conservation) Act, 1980. The respondents have supplied the information in piecemeal to the State Government after the issuance of repeated directions. Since the information as directed was not forthcoming, the Central Bureau of Investigation was arrayed as respondent No.7.

The Parliament has enacted the Act called "the Forest (Conservation) Act, 1980. Section 2 thereof imposes restrictions on the de-reservation of forests or use of forest land for non-forest purposes. Section 3-B deals with offences by authorities and Government Departments. The Central Government has also framed the rules called "the Forest (Conservation) Act, 2003. Rule 9 thereof provides the mechanism for proceedings against persons guilty of offences under the Act.

Accordingly, in view of the observations made hereinabove, respondent No.1 is found guilty of committing contempt of this Court for willful disobedience of the orders passed by this Court in CWP No.1358/2001. Respondent No.2 is absolved/exonerated. Respondent No.3 knowing fully well being a Government Officer that there is a ban on green felling has invited tenders though the same were subsequently cancelled. However, he is directed to be careful in future.

Respondent No.1 is the Pradhan of Gram Panchayat, Mandal. He has already deposited the fine imposed amounting to Rs. 23,925/-. Respondent No.1 has been held guilty for committing contempt of the orders passed by this Court in CWP No. 1358/2001. However, instead of sentencing or directing him to pay a fine, the interest of justice will suffice if he is directed to plant at least 500 plants of Deodar on the land to be provided by the Forest Department. The nourishment of these plants shall be the responsibility of respondent No.1 under the supervision of the Divisional Forest Officer concerned. He shall look after the plants for a period of five years. Thereafter the

up-keep of the trees planted by respondent No.1 being Pradhan of Gram Panchayat, Mandal shall be taken over by the Divisional Forest Officer concerned of the area. This will also ensure the participation of the local people in protecting, conserving and preserving the forest wealth of the State of Himachal Pradesh.

In view of the specific directions issued to respondent No.1 to plant 500 trees of Deodar, the conviction of respondent No.1 under the contempt jurisdiction shall not in any manner affect the status of respondent No.1 as Pradhan of the Gram Panchayat. It is clarified that no separate proceedings shall be initiated against him.

The Court takes judicial notice of the fact that in the process of seeking 'no objection certificates' from the agencies constituted under the Forest (Conservation) Act, 1980 is tardy and time consuming. Consequently, respondent No.6 is directed to ensure that as and when the applications for 'no objection certificate' are received, the needful be done within a reasonable period so that there is no delay in undertaking the construction of projects through forests areas. The delay in granting the permission escalates the cost of construction and the burden passes on to the tax-payers.

The agencies while issuing 'no objection certificate' shall also ensure that at least the site is visited once to ensure minimum damage to the forest wealth. They should not merely rely upon the report furnished by the State agencies.

Now, the Court has to issue necessary directions to respondent-State to take suitable action against the persons, whose details find mention in the Annexures annexed with the supplementary affidavits filed by respondents No.4 and 5. The persons mentioned in

these Annexures resumed the construction of roads without prior permission of the Central Government under the Forest (Conservation) Act, 1980. The Principal Secretary (PW) has also undertaken to take disciplinary action against the persons involved in the construction of roads in violation of law. The Additional Chief Secretary (Forests) to the Government of Himachal Pradesh has also suspended three Officers of the Department. The necessary instructions have been issued to the Deputy Commissioner to take action against the Block Development Officer, Jubbal. The directions have also been issued to the Deputy Commissioners to initiate proceedings against the Patwaris, who have issued 'no objection certificates' at their own level.

Mr. Sandeep Sharma, learned Assistant Solicitor General of India on the previous date of hearing has assured the Court that the action shall be taken against the defaulters who have violated the mandatory provisions of the Forest (Conservation) Act, 1980.

It is evident from the contents of Annexure R-3 (Page 124) that the Forest Department has been compounding the matters in violation of section 68 of the Indian Forest Act. The necessary notification for compounding has to be issued by the State Government and the same has to be published in the Gazette. There is no deterrence in the prevailing instructions issued by the State Government. The stern action is required to be taken against the persons, who are involved in illicit felling of trees. The action should be taken departmentally and the prosecution should also be launched against the defaulters.

Accordingly, the following directions are issued to the respondent-State:

- i) The Himachal Pradesh Public Works Department/State shall not undertake the construction of any road in the forest areas without the mandatory permission under the Forest (Conservation) Act, 1980 as undertaken by the Principal Secretary (PW) in his affidavit;
- ii) Stern disciplinary action be taken against the persons as per the undertaking given by the Principal Secretary (PW) against the officers/officials whose details are given in the Annexures filed with the supplementary affidavits while constructing roads in violation of the Forest (Conservation) Act, 1980. The disciplinary proceedings shall be commenced within a period of six weeks and the same shall be concluded as far as possible within a period of one year;
- iii) The Additional Chief Secretary (Forests) is also directed to take suitable disciplinary action against the persons, who are involved in granting 'no objection certificates' in violation of the Forest (Conservation) Act, 1980 while undertaking the construction of 166 roads. The disciplinary proceedings shall be commenced within a period of six weeks and the same shall be concluded as far as possible within a period of one year;
- iv) The Deputy Commissioners in the State of Himachal Pradesh are directed to ensure that the Block Development Officers/Pradhan/Patwaris, who are instrumental in the construction of roads in violation of Forest (Conservation) Act, 1980 are dealt with departmentally. The necessary charge-sheet etc. shall be issued within a period of six weeks and the inquiry be completed as far as possible within a period of one year;
- v) Since admittedly 116 roads have been constructed in violation of the Forest (Conservation) Act, 1980, the action under this Act shall also be taken against the

persons by the competent authorities prescribed under the Forest (Conservation) Rules, 2003. The action shall be initiated by the prescribed authorities within a period of one month from today. The details of the persons against whom the action is to be taken are provided in the Annexures filed with the supplementary affidavits of respondents No.4 and 5.

- vi) The respondent-State is suggested to issue necessary notification under section 68 of the Indian Forest Act dealing with the cases of illicit felling. The Court hopes and trusts that strong action will be taken against the persons, who are involved in the illicit felling of trees.
- vii) In order to ensure and supervise that the directions issued are complied with punctually, a committee of following two officers comprising of Mr. P.C. Kapoor, Principal Secretary (PW) Government of Himachal Pradesh and Mr. Upasak, Addl. S.P., Central Bureau of Investigation is constituted. The committee shall file the status report after every three months disclosing the latest status of the disciplinary proceedings initiated against the defaulters for a period of one year;

In view of the aforesaid discussion, the petition is disposed of.

The pending application(s), if any, also stand disposed. The notices issued to respondents No. 1 to 3 stand discharged. No costs.

(Rajiv Sharma), J.

28.8. 2009.

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No.PBW(B)E(3)1/2013-I
Government of Himachal Pradesh
Public Works Department

The Pr. Secretary (PW) to the
Government of Himachal Pradesh.

The Engineer-in-Chief,
HP PWD, Nirman Bhawan,
Nigam Vihar, Shimla-2

18th June, 2014.

Notification- Violation of the provisions of the Forest (Conservation) Act, 1980- approval to cases of construction of roads in compliance of directions passed on 8.8.2013 and 5.9.2013 in CWP No. 5660 of 2012 a/w CWP No. 9797/2012 and COPC No. 56/2009.

I am directed to enclose herewith a copy of notification No. FFE-B-E(3)-31/2012 dated 30-05-2014 received from the Pr. Secretary(Forest) Government of H.P. addressed to this department, among others on the above cited subject and to request you to issue necessary directions to all CEs for taking further necessary action in the matter.

Yours faithfully,

**Deputy Secretary (PW) to the
Government of Himachal Pradesh.
June, 2014.**

Copy to the Pr. Secretary (Forests) to the Government of Himachal Pradesh,
H.P.Shimla-2.

**Deputy Secretary (PW) to the
Government of Himachal Pradesh.**

$$\begin{array}{r} 1131 \\ \hline 19-6-14 \end{array}$$

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~~PA~~ Fals
Dr. Gebel's.

Government of Himachal Pradesh

Department of Forests

No.FFE-B-F(3)-31/2012

Dated Shimla-171002, the

NOTIFICATION

In supersession of Notification No.FFE-B-F(3)-31/2012 dated 24.10.2013, the Governor of Himachal Pradesh is pleased to constitute the following committees to carry out inspection of roads in accordance with the guidelines worked out in a joint meeting of the officials of the Govt. of H.P and Ministry of Environment & Forests, Govt. of India held on 19.8.2013 in pursuance of the orders dated 8th August and 5th September, 2013 of Hon'ble Court of Himachal Pradesh in CWP No. 5600 of 2012, CWP No.9797 of 2012 and CoPC No.56 of 2009 :-

I **ROAD PROPOSALS IN WHICH NO FURTHER CONSTRUCTION IS REQUIRED.**

- | | |
|---|---|
| 1. Divisional Forest Officer of the area | : Chairman |
| 2. Representative of Deputy Commissioner
(not below the rank of SDM) | : Member |
| 3. Executive Engineer (HPPWD) of the area | : Member Secretary
(In respect of HPPWD roads) |
| 4. Block Development Officer of the area | : Member Secretary
(In respect of RD Deptt. roads) |
| 5. Executive Engineer (Civil) of the area | : Member Secretary
(In respect of BRO roads) . |

The terms of reference of the Committee are as under:-

- i) Carry out inspection of all roads referred in the orders of the Hon'ble High Court of H.P in CWP No. 5600 of 2012, CWP No.9797 of 2012 and CoPC No.56 of 2009.

PTO

(109)

- ii) Give a detailed report, road wise on the violation also indicating the extent of violation.
- iii) Indicate road wise measures required, if any, for strengthening the ecology of the area.

II ROAD PROPOSALS REQUIRING ADDITIONAL WORKS TO BE UNDERTAKEN

- 1. Conservator of Forests of the area : Chairman
- 2. Superintending Engineer (HPPWD) : Member
(In respect of HPPWD roads)
- 3. Divisional Forest officer of the area : Member
- 4. Representative of Deputy Commissioner (not below the rank of SDM) : Member
- 5. Project Officer, DRDA : Member
(In respect of RD Deptt. roads)
- 6. Director (Planning) ,Deepak project : Member
(In respect of BRO roads)
- 7. Executive Engineer (HPPWD) of the area : Member Secretary
(In respect of HPPWD roads)
- 8. Bock Development Officer of the area : Member Secretary
(in respect of RD Deptt. roads)
- 9. Executive Engineer (civil) of the area : Member Secretary
(In respect of BRO roads)

The terms of reference of the Committee are as under :-

- i) Carry out inspection of all roads referred in the orders of the Hon'ble High Court of H.P in CWP No. 5600 of 2012, CWP No.9797 of 2012 and CoPC No.56 of 2009.
- ii) Give a detailed report, road wise, on the violation also indicating the extent of violation.

- iv) Indicate necessity of undertaking construction of the remaining part yet to be constructed and explore possibility of including minimum forest/trees for the remaining part.
- v) Indicate road wise measures required, if any, for strengthening the ecology of the area.

The Member Secretary shall ensure that a minimum of three roads are inspected by the Committee(s) every month in each Forest Division and road wise report is submitted to the concerned DFO within one week of the date of inspection.

By order

Pr. Secretary (Forests) to the
Government of Himachal Pradesh

30 MAY 2014

Endst. No. No.FFE-B-F(3)-31/2012

Dated Shimla-171002, the

Copy is forwarded to the following for information and necessary action:-

1. The Addl. Chief Secretary (RD) to the Govt. of H.P, Shimla
2. The Pr. Secretary (Revenue) to the Govt. of H.P. Shimla
3. The Pr. Secretary (PWD) to the Govt. of H.P. Shimla
4. The Pr. Chief Conservator of Forests (HoFF) Himachal Pradesh, Talland, Shimla-171001.
5. Engineer-in-Chief, HPPWD, Himachal Pradesh, Shimla-2.
6. Director (Rural Development, Department) H.P. Shimla-2.
7. Director (Planning), Project Deepak, Chaura Maidan, Shimla-171005

Deputy Secretary (Forests) to the
Govt. of Himachal Pradesh, Shimla-2

**Inspection Report of the Committee Constituted vide Government of Himachal Pradesh
Department of Forest Notification No. FFE-B-F-(3)-31/2012 dated 24-10-2013 in respect of
Link road to village Bhogpur Simbalwala on dated 2-11-2015.**

1. Name of Circle/Distt./Division/Tehsil/Range

Nahan/Sirmour/Nahan/Nahan/Trilokpur.

2. Name of road including Kms. From - to-

Link road to Bhogpur Simbalwala Km.0/0 to 3/440 kms.

3. Total length of road passing through the Forest area and Private area

Total length of the road passing through forest area is 0.545 Kms. and 2.895 kms through private area.

4. Length of the road for which forest land has already been broken/constructed

Total length of road is 3.440Kms & length of road in broken forest land is 0.545 kms.

5. Length of the road and extent (in hac,) passing through forests

Length of road = 0.545 Kms. Extent = 3270 Sq. mtrs or 0.327 Hectares.

6. Date of starting the work

The work was started during year 1977 as foot path track by the Gram Panchayat.

7. Name of organization which constructed the road

The road construction was initially started by the Gram Panchayat in year 1990 probably in a length of nearly 200 mtrs & later its formation construction was completed by the HPPWD during the year 2001 – 2002.

8. For completing the work, whether there is need to use additional forest area or alignment can be changed without further use of forest land

There is no need for additional forest land as road formation construction work has already been completed..

9. If not, total length of the road and forest area required for completing the work (including the forest area used and to be used)

Total length of road = 3.440Kms.

Total length of road passing through forest = 0.545 Kms

Forest Area utilized= 0.327 Hectare. Additional Forest area required= Nil.

10. Details of damages caused to bio-diversity including number of trees felled other than breaking the earth (which is already covered under point 5 above)

As per record available no damages are reported to bio-diversity including trees.

X. y. f.
2.11.15

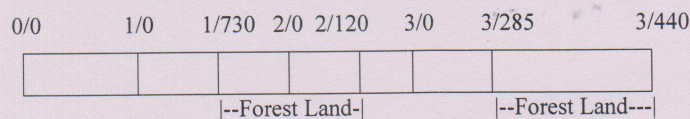
11. Details of soil conservation/engineering works necessary on the upper and lower sides of the road for its strengthening and avoiding landslides

No specific protection work is required on the road for avoiding landslides.

12. Estimated expenditure for carrying out these engineering works

a). Nil.

BAR CHART SHOWING THE FOREST LAND

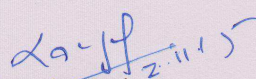


13. Recommendations of the Committee (should include length in Kms, extent of forest land additionally required for completing the work, expenditure to be included on engineering/vegetative works necessary for stabilizing the soil/boulders on upper and lower sides of the road. etc.)

Total length of road is 3.440Kms. and out of this 0.545 Km. passes through forest land.

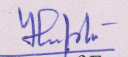
No additional land is required for further construction work beside 0.327 hectare of forest land which has already been utilized.

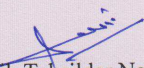
The total cost of DPR is yet to be worked out which shall be evaluated after necessary sanction of forest land diversion case.


Executive Engineer
HP.PWD Division,
Nahan.


Divisional Forest Officer
Forest Division, Nahan


Superintending Engineer,
12th Circle HP.PWD Nahan.


Conservator of Forest
Distt. Sirmour, Nahan.


Naib Tehsildar Nahan
Distt. Sirmour (H.P)

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWPIL No. 91 of 2017
Decided on: November 16, 2017

Court on its own motion

.....Petitioner

Versus

State of Himachal Pradesh and others

....Respondents

Coram

Hon'ble Mr. Justice Sanjay Karol, Acting Chief Justice

Hon'ble Mr. Justice Sandeep Sharma, Judge

Whether approved for reporting? Yes.

For the petitioner : Ms. Rashmi Parmar, Advocate (*Amicus Curiae*)

For the respondents : Mr. Shrawan Dogra, Advocate General
with Mr. Anup Rattan and Mr. Romesh
Verma, Additional Advocate Generals.

Sandeep Sharma, Judge (oral):

Taking cognizance of letter addressed to the Chief Justice of this Court, wherein person namely Shri Anant Ram Negi, resident of Village Halaila, Post Office Kotkhai, District Shimla, Himachal Pradesh, highlighted a serious issue with regard to illegal felling of trees by various private persons as well as administration for construction of roads through forest land, this Court directed Registry of this Court to register the instant petition as Public Interest Litigation (CWPIL). In the letter petition, petitioner alleged that many disgruntled persons residing in Himri Panchayat, Tehsil Kotkhai, District Shimla have indulged in illegal felling of trees for the construction of roads to their respective houses. Though the letter petitioner specifically raised issue with regard to construction of road

¹ Whether the reporters of the local papers may be allowed to see the judgment? .

from Village Tharmala to Bertu via Village Guthan but also expressed his concern with regard to unauthorized construction of roads in the State of Himachal Pradesh, through forest land in violation of the Forest Conservation Act. Petitioner has alleged that since the officials of Forest Department are hands in glove with the forest mafia, no steps are being taken to stop/check illegal felling of trees, as a result of which, forest wealth is decreasing day by day. Apart from above, petitioner also highlighted the issue with regard to raising of orchards by private persons on the forest land in and around Shimla District.

2. Apart from above, this Court also received one letter in continuation to aforesaid letter petition, wherein, it is alleged that one person namely Keshav Ram Dogra, constructed road to his orchard by felling trees standing on forest land. Though letter petitioner by way of petition referred to herein above, alleged that more than four hundred roads have been constructed through forest land in District Shimla, after felling approximately 4000 deodar trees but no material has been placed on record to substantiate the aforesaid allegation.

3. This Court, taking note of the aforesaid serious allegations contained in the letter petition, directed the learned Additional Advocate General appearing on behalf of the State to have instructions in the matter. The Principal Chief Conservator of Forests, while filing reply on behalf of the State, denied aforesaid allegations levelled in the letter petition and claimed that the roads in the State of Himachal Pradesh and in District Shimla are being constructed after obtaining approval under Forest Conservation Act, 1980. It is further

disclosed in the affidavit that roads involving upto one hectare area are also being constructed after getting due sanction under Forest Rights Act, 2006, from the Divisional Forest Officer concerned. Above named deponent, specifically denied the allegation with respect to construction of 05 kms of road by forest mafia in the recent past, rather, it has been stated in the affidavit that Divisional Forest Officer Theog has accorded approval of 32 roads comprising of area measuring 16.1091 hectares under Forest Rights Act, from January, 2016 to 30.6.2017, under his jurisdiction. While refuting the contention of the letter petitioner that forest cover in the State of Himachal Pradesh is decreasing, Principal Chief Conservator of Forests has stated in his affidavit that there is an increase of 13 sq metres of forest cover in the State of Himachal Pradesh as per Forest Survey of India report, 2015. While dealing with specific instances as quoted in the letter petition with regard to Tharmala-Bertu and Guthan-Bohal roads, falling in Himri Panchayat of Kotkhai Tehsil, it has been informed by the State that necessary directions were issued to the Range Forest Officers, Kotkhai and Theog to visit the spot and submit a fact finding report. Aforesaid officer after having visited the spot, has reported that roads mentioned herein above were constructed about five years back and their length is only 2 kms and same figure in the list of cases registered for construction of roads in violation of Forest Conservation Act at Sr. No. 245.(Annexure R-I).

4. Similarly, the Range Forest Officer, Kotkhai after having inspected the spot alongwith Block Officer, Shillaru, Forest Guard Incharge of Sharmila Beat and Forest Guard Shillaru Beat, reported

that 480 metres long road has been constructed from Tharmala to Bertu in DPF Solku of Sharmala Beat. He has further reported that the road in question appears to have been constructed ten years ago. As per report submitted by Range Forest Officer, Kotkhai, person namely Keshav Ram manually widened the path by 2 feet making it motorable, qua which Range Forest Officer, Kotkhai chalked out damage report No. 10/17-18 dated 23.8.2017, against Shri Keshav Ram for the alleged offence committed by him and same shall be disposed of as per departmental procedure. As per reply submitted by the respondent-State, road in question has been fenced on both sides by the State and Deodar trees have been planted, as is evident from the photographs placed on record as Annexure R-IV.

5. Most importantly, perusal of annexure R-III suggests that Range Forest Officer, Kotkhai also contacted the letter petitioner namely Shri Anant Ram Negi on his cell phone, who in turn informed the concerned officer that this is a false complaint made in his name and he has nothing to do with these roads. Similarly, inquiry with regard to construction of Tharmala-Bertu road has been entrusted to Divisional Forest Officer, Theog.

6. Though, this court after having perused aforesaid reply filed by the respondent-State sees no reason to issue further directions in the matter, especially when complaint allegedly having been filed by Shri Anant Ram Negi has not been actually filed by the letter petitioner, as is stated by him to Range Forest Officer, Kotkhai, but this Court after perusing the documents placed on record by the Principal Chief Conservator of Forests, annexure R-I, sees substantial

force in the averments contained in the letter petition that roads are being constructed in the State of Himachal Pradesh in violation of Forest Conservation Act. As per own calculation of the Forest Department, approximately 2183 roads have been constructed in the State of Himachal Pradesh in violation of the Forest Conservation Act, which is a large number and can not be overlooked. It also emerges from the perusal of documents placed on record by the Forest Department that the matter with regard to construction of roads in the State of Himachal Pradesh in violation of Forest Conservation Act had come to the notice of this Court, in CWP No. 5600 of 2012 titled as **Manoj Kumar** versus **Union of India & others** and connected matters and COPC No. 56 of 2009 titled as **Kuldeep Singh Chauhan** versus **Balbir Thakur and others**, wherein, directions were issued to the State of Himachal Pradesh as well as Ministry of Environment and Forests, Government of India, for inspection of such roads by Committees and thereafter to report the matter to the Northern Regional Officer, Ministry of Environment and Forests, Chandigarh, for consideration of proposal for approval.

7. Though this Court, after having perused specific reply qua the roads allegedly constructed by private persons or authorities in violation of Forest Conservation Act, sees no reason to keep this petition alive, but, definitely, this Court can not lose sight of the fact that thousands of roads have been constructed in the State of Himachal Pradesh, in violation of Forest Conservation Act as such, this Court deems it proper to call for a detailed report from the respondent-State with regard to steps taken by the Forest Department for obtaining approval from the Ministry of Environment

and Forests, Government of India, pursuant to directions issued by this Court in CWP No. 5600 of 2012 (supra) and COPC No. 56 of 2009 (supra).

8. Before issuing necessary directions in light of the discussion made herein above, it may be noticed that the issue with regard to encroachment on forest land by private persons in District Shimla for raising orchards is already pending adjudication before this Court in CWPIL No. 9 of 2015 and CWPIL No. 17 of 2014, as such, no directions in that regard are required to be issued in the present petition.

9. Consequently, in view of discussion made herein above, present petition is disposed of with a direction to the Chief Secretary to the Government of Himachal Pradesh to file his personal affidavit, detailing therein number and names of roads constructed in the State of Himachal Pradesh, in violation of Forest Conservation Act. Chief Secretary may also indicate in his affidavit that what steps have been taken by the State for getting necessary permission from the Ministry of Environment and Forests, Government of India, for regularization of roads constructed in violation of Forest Conservation Act. Needful be done within a period of two weeks from today.

10. Aforesaid affidavit filed by the Chief Secretary to the Government of Himachal Pradesh in compliance to the instant judgment shall be placed before this Court.

(Sanjay Karol)
Acting Chief Justice

(Sandeep Sharma)
Judge

November 16, 2017 (vikrant)

ANNEXURE -4

**HIMACHAL PRADESH
PUBLIC WORKS DEPARTMENT**

No. PW/NHN/WA-I/FCA-09/2022-23- **11863** Dated:- **19/10/2022**

To

✓ The Divisional Forest Officer,
Nahan Forest Division,
District Sirmaur, H.P.

Subject: -

Diversion of 0.327 hectare forest land in favour of HPPWD for the construction of link road from village Bhogpur Simbalwals kms.0/0 to 3/440 (portion 1/730 to 2/120 and 3/285 to 3/440), within the jurisdiction of Nahan Forest Division District Sirmaur Himachal Pradesh. (Online Proposal No. FP/HP/Road/22919/2016)

Reference:-

Letter No: FC/H.P.C./06/29/2021 dated 11.04.2022

Sir,

As per the letter dated 11.04.2022 mentioned in the above reference, EDS has been received from the Integrated Regional Office, Shimla in which this department/user agency has to submit the Certificate regarding exact aerial distance from the nearest National Park/Sanctuaries from the competent authority. The exact aerial distance from the nearest National Park/Sanctuaries i.e. Kalesar Wild Life Sanctuary is 22.09 kilometer from the proposed site.

Therefore, it is requested to issue the necessary certificate for the same so that reply to the EDS may be prepared and submitted accordingly please.


Executive Engineer
Nahan Division
HPPWD Nahan

ANNEXURE -5

कापिंग एजेन्सी नाहन

रजिस्ट्रार सी० डी० 2 से प्रार्थना

प्रार्थना पत्र.....2468.....की तिथि 21/10/2022

आज सकल बहीस.....16/11/2022.....

प्रति होने की तिथि.....18/11/2022.....

निश्चित जब इसे प्रमाणित और दस्तखत की

सब्बों की संख्या: न पत्र.....12.....

क) प्रति कर प्रमाणित : प्रमाणित तिथि.....Collect of H.P. W.D. Nakun.....

ख) अन्तर्गत संख्या.....

ग) आज की तिथि.....

घ) रजिस्ट्रेशन का एक प्रमाण.....

ड) सी०पी०डी० नम्बर.....

कुल प्रमाणित.....Collect.....

नया निष्पत्ति तिथि 18/11/2022.....

प्रति अन्तर्गत से सही प्रमाणित की जाती है

तिथि 18/11/2022 प्रमाणित.....

नैसर्गिक 76 बाग्यीय एवं जिला एक्ट 1872

के अन्तर्गत अधिवृत्त ।

15 copy of certificate - 1702

358

Format of certificate of non-Availability of land for compensatory afforestation in the District, Sirmaur, H.P.

No.

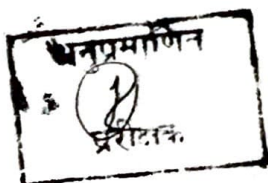
Dated 05th November, 2015

Certificate of Non-Availability of land for compensatory Afforestation in respect of following schemes:

1	C/o Link Road Khajurana to Malonwala RD 0/0 to 3/000 kms. diversion of land comprised in Khasra No. Bila Paimud, village Khajurana, Malonwala, G.P. Bankala, Tehsil Nahan, Sub Division Nanan.
2	C/o Link Road Shambhuwala to Koon-Neharla RD 7/040 kms. diversion of land comprised in Khasra No. Bila Paimud, village Shambhuwala, Koon, Neharla, G.P. Bankala, Tehsil Nahan, Sub Division Nanan.
3	C/o Link Road Thana-Kasoga to Tirmali-Diar RD 0/00 to 15/200 kms. diversion of land comprised in Khasra No. Bila Paimud, village Thana Kasoga, Tirmali Diar, G.P. Thana Kasoga, Birla, Tehsil Nahan, Sub Division Nanan.
4	C/o Link Road Trilokpur to Tedibaroti RD 0/0 to 2/570 kms. diversion of land comprised in Khasra No. Bila Paimud, village Trilokpur, Tedibaroti, G.P. Trilokpur, Tehsil Nahan.
5	C/o Link Road Kaulanwala-Bhood to Neemwali RD 0/0 to 3/500 kms. diversion of land comprised in Khasra No. Bila Paimud, village Kaulanwala-bhood, Neemwali, G.P. Palion, K.W. Bhood, Tehsil Nahan.
6	C/o Link Road Bhogpur-Simbalwala RD 0/0 to 4/000 kms. diversion of land comprised in Khasra No. Bila Paimud, village Bhogpur-Simbalwara, G.P. Palion, Tehsil Nahan, Sub Division Nanan.
7	C/o Link Road Kathana-pathar Dhandoli to Junjar Johari Road 3/500 kms. diversion of land comprised in Khasra No. Bila Paimud, village Kathana-Pathar, Dhandoli, Junjar Johari, G.P. Banethi, Tehsil Nahan, Sub Division Nanan.
8	C/o Creating storage capacity under NFSA at Dadahu diversion of land comprised in Khasra No. 860/362/1 measuring 01-00-00 bigha situated in mauza Chuli Dadahu, Sub Teh. Dadahu, Sub Division Nanan.

I, B.C. Badalia, IAS, District Collector, District Sirmaur, H.P. do hereby certify that:

- (ii) I have obtained from Sub Divisional Collector, Nahan and Divisional Forest Officer, Nahan in the District Sirmaur, a joint certificate to the effect that non-forest land revenue lands, zudpi jungle, chhote jhar ka jungle, bade jhar ka jungle, jungle-jhari land, civil soyam lands and all other such categories of forest lands (except the forest land under management and administrative control of the Forest Department) on which the provisions of Forest (Conservation) Act, 1980 are applicable, which as per the extant guidelines of the Central Government may be utilized for creation of compensatory afforestation in lieu of forest land



Contd. on P-2

diverted for non-forest purpose are not available in the area under their respective jurisdiction. and

(ii) I have also examined all other relevant records.

On the basis of afore-mentioned joint certificates and examination of all other relevant records. I do hereby certify that non-forest land, revenue lands, zudpi jungle, chhote jhar ka jungle, bade jhar ka jungle, jungle-jhari land, civil-soyam lands and all other such categories of forest lands (except the forest land under management and administrative control of the Forest Department) on which the provisions of Forest (Conservation) Act, 1980 are applicable, which as per the extant guidelines of the Central Government may be utilized for creation of compensatory afforestation in lieu of forest land diverted for non-forest purpose are not available in the entire Sub Division Nahan.

Issued under by hand and seal on this 05th day of November 2015.


Divisional Forest Officer.
Nahan.


District Collector
District Sirmaur



P/S copy of Form-1-1

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FORM-I
(for linear projects)
Govt. of H.P.

OFFICE OF THE DISTRICT COLLECTOR, DISTT. SIRMAUR AT NAHAN, H.P.

No.....

Dated. 5/11/2015

TO WHOMSOEVER IT MAY CONCERN

In the compliance of the Ministry of Environment and Forests (MoEF), Government of India's letter No. 11-9/98-FC (pt.) dated 3rd August 2009 wherein the MoEF issued guidelines on submission of evidences for having initiated and completed the process of settlement of rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 ('FRA', for short) on the forest land proposed to be diverted for non-forest purposes read with MoEF's letter dated 5th February 2013 wherein MoEF issued certain relaxation in respect of linear projects, it is certified that 0/0 to 4/000 kms. area of forest land proposed to be diverted in favour of Executive Engineer, B&R Division HP.PWD., Nahan, District Sirmaur for C/o Link Road Bhogpur-Simbalwala RD 0/0 to 4/000 kms. diversion of land comprised in Khasra No. Bila Paimud, village Bhogpur-Simbalwara, G.P.Palion, Tehsil Nahan, Sub Division Nahan.

It is further certified that:

- the complete process for identification and settlement of rights under the FRA has been carried out for the entire 0/0 to 4/000 kms. forest area proposed for diversion. A copy of records of all consultations and meetings of the Forest Rights Committee(s), Gram Sabha(s)/FRC(s), Sub-Division Level Committee(s) and the District Level Committee are enclosed as annexure- A, B and C.
- the diversion of forest land for facilities managed by the Government as required under section 3 (2) of the FRA have been completed and the Gram Sabhas/FRCs have given their consent to it;
- the proposal does not involve recognized rights of Primitive Tribal Groups and Pre-agricultural communities.

Encl: As above.

No. Peshi-H-8(1-FRA)2015-106523
Dated, Nahan, the

District Collector
District Sirmaur at Nahan.

The Executive Engineer,
B&R Division HP.PWD.,
Nahan, District Sirmaur(HP)



P/S copy of certificate -1 361

**OFFICE OF THE DISTRICT COLLECTOR, DISTRICT SIRMAUR
AT NAHAN, H.P.**

Certificate regarding Non-Availability of Non-Forest land in respect of construction of Link Road Bhogpur-Simbalwala RD 0/0 to 4/000 kms. diversion of land comprised in Khasra No. Bila Paimud, village Bhogpur-Simbalwara, G.P.Palion, Tehsil Nahan Sub Division Nahan, District Sirmaur, H.P.

It is certified that there is no alternative suitable non forest land available for the construction of Link Road Bhogpur-Simbalwala RD 0/0 to 4/000 kms. diversion of land comprised in Khasra No. Bila Paimud, village Bhogpur-Simbalwara, G.P.Palion, Tehsil Nahan, Sub Division Nahan, District Sirmaur and the use of forest land for the project is unavoidable.


District Collector,
Distt. Sirmaur at Nahan.

No. Peshi-H-&(1-FRA)2015-106523
Dated, Nahan, the

The Executive Engineer,
Nahan (B&R) Division, HPPWD, Nahan,
Distt. Sirmaur (H.P)



File A.
P/S copy of proceeding meeting - 362

Proceedings of the meeting of Sub-Divisional Level Committee established under Rule 7(c) of the Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights Rules, 2006) held under the Chairmanship of Sub-Divisional Officer (Civil), Nahan on 24-08-2015 in connection with construction of various Link Roads in Sub-Division, Nahan.

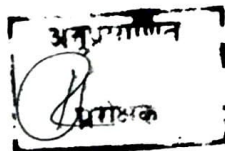
The following official and non-official members attended the meeting of Sub-Divisional Level Committee, established under Rule 7(c) of the Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights Rules, 2006), held on 24-08-2015 under the Chairmanship of the undersigned for the construction of certain link roads:-

OFFICIAL MEMBERS

1. Sh.R.D, Harnot, Tehsildar, Nahan
2. Sh. Nishant Mandhotra, Divisional Forest Officer, Nahan

NON-OFFICIAL MEMBERS

3. Smt. Anita Devi, B.D.C. Member
4. Sh. Babu Ram, B.D.C. Member
5. Sh. Rakesh Kumar, B.D.C. Member.



PROCEEDINGS

The meeting started with the welcome address by the Chairman. The Chairman apprised the members of the committee that the proposals have been received for the diversion of land for the construction of following Link Roads:-

S.No.	Name of scheme	Village	No. Khasra	Area	Gram-Panchayat
1. ✓	C/O Link Road Khajurana to Malonwala	Khajurana, Malonwala	बिला पैमूद	0/0 to 3/000 Kmts.	Bankala
2.	C/O Link road Shambuwala to Koon-Neharla	Shambuwala, Koon, Neharla	-do-	7/040 Kmts.	-do-
3.	C/O Link road Thana-Kasoga to Tirmali-Diar	Thana-kasoga, Tirmali-diar	-do-	0/00 to 15/200 Kmts.	Thana-Kasoga, Birla
4.	C/O Link Road Trilokpur to Tedibaroti	Trilokpur, Tedibaroti	-do-	0/0 to 2/570 Kmts	Trilokpur
5	C/O Petrol Pump Shikki-	Shilli-sanari	397/238	3-12 Bighas	Banethi

P. T. O.

Sub-Divisional Officer (C)
Nahan District - Himachal Pradesh

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	Sanari				
6.	C/o Link Raod Kaulanwala- Bhood to Neemwali	Kaulanwala-bhood Neemwali	बिला पैमूद	0/0 to 3/500 Kmts	Palion, K.W. Bhood
7.	C/o Link Raod Bhogpur- Simbalwala	Bhogpur- simbalwala	-do-	0/0 to 4/000 Kmts.	Palion
8.	C/o Link Raod Kathana-pathar Dhandoli to Junjar Johari Road	Kathana- pathar, Dhandoli, Junjar Johari	-do-	-----	Banethi

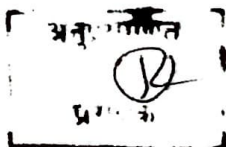
After receiving the proposals from the executing agency i.e. XEN, PWD and duly forwarded by the Deputy Commissioner, Sirmaur, the proposals were sent to respective FRC's and Gram Panchayats through B.D.O. and all the certificates are received back from the FRC's and Panchayats duly recommending the proposals and hence no claims have been lodged and received. The details of the resolutions of the concerned Gram Panchayats are as under:-

Sl. No.	Name of Panchayat	Resolution No.	Date
1.	Bankala	16 & 5	8.12.2014 & 4.8.2015
2.	Thana-Kasoga	8	10.8.2015
3.	Birla	5	5.8.2015
4.	Trilokpur	6	5.1.2014
5.	Banethi	5	10.8.2015
6.	Kaulanwala-Bhood	8	4.8.2015
7.	Palion	4	10.8.2015
8.	Banethi	1	10.2.2015

During the course of discussions in the meeting it has been revealed that no claim and objection has been raised by any one despite publication of notices and providing reasonable opportunity. Therefore it has been observed that no right of Scheduled Tribe and other Traditional Forest Dwellers or right holders are affected adversely by such conversions under F.C.A., 1980. Hence the committee recommends and forwards the case of conversions of Forest land, if any for the construction of abovementioned proposed link roads to issue certificate under the Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights Rules, 2006) to the user department under the Forest Conservation Act, 1980.

The meeting ended with vote of thanks.

Sub-Divisional Officer (C),
Nahan, District Sirmaur, H.P.



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Proceedings of the meeting of Sub-Divisional Level Committee established under Rule 7(c) of the Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights Rules, 2006) held under the Chairmanship of Sub-Divisional Officer (Civil), Nahan on 24-08-2015 in connection with construction of various Link Roads in Sub-Division, Nahan.

The following official and non-official members attended the meeting of Sub-Divisional Level Committee, established under Rule 7(c) of the Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights Rules, 2006), held on 24-08-2015 under the Chairmanship of the undersigned for the construction of certain link roads:-

OFFICIAL MEMBERS

1. Sh.R.D, Harnot, Tehsildar, Nahan
2. Sh. Nishant Mandhotra, Divisional Forest Officer, Nahan

NON-OFFICIAL MEMBERS

3. Smt. Anita Devi, B.D.C. Member
4. Sh. Babu Ram, B.D.C. Member
5. Sh. Rakesh Kumar, B.D.C. Member.

PROCEEDINGS

The meeting started with the welcome address by the Chairman. The Chairman apprised the members of the committee that the proposals have been received for the diversion of land for the construction of following Link Roads:-

S.No.	Name of scheme	Village	No. Khasra	Area	Gram-Panchayat
1. ✓	C/O Link Road Khajurana to Malonwala	Khajurana, Malonwala	बिला पैमूद	0/0 to 3/000 Kmts.	Bankala
2.	C/O Link road Shambuwala to Koon-Neharla	Shambuwala, Koon, Neharla	-do-	7/040 Kmts.	-do-
3.	C/O Link road Thana-Kasoga to Tirmali-Diar	Thana-kasoga, Tirmali-diar	-do-	0/00 to 15/200 Kmts.	Thana-Kasoga, Birla
4.	C/O Link Road Trilokpur to Tedibaroti	Trilokpur, Tedibaroti	-do-	0/0 to 2/570 Kmts	Trilokpur
5	C/O Petrol Pump Shikki-	Shilli-sanari	397/238	3-12 Bighas	Banethi

Sub-Divisional Officer (C)
Nahan District Sirmour (H.P.)

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	Sanari				
6.	C/o Link Raod Kaulanwala- Bhood to Neemwali	Kaulanwala-bhood Neemwali	बिला पैमूद	0/0 to 3/500 Kmts	Palion, K.W. Bhood
7.	C/o Link Raod Bhogpur- Simbalwala	Bhogpur- simbalwala	-do-	0/0 to 4/000 Kmts.	Palion
8.	C/o Link Raod Kathana-pathar Dhandoli to Junjar Johari Road	Kathana- pathar, Dhandoli, Junjar Johari	-do-	-----	Banethi

After receiving the proposals from the executing agency i.e. XEN, PWD and duly forwarded by the Deputy Commissioner, Sirmaur, the proposals were sent to respective FRC's and Gram Panchayats through B.D.O. and all the certificates are received back from the FRC's and Panchayats duly recommending the proposals and hence no claims have been lodged and received. The details of the resolutions of the concerned Gram Panchayats are as under:-

Sl. No.	Name of Panchayat	Resolution No.	Date
1.	Bankala	16 & 5	8.12.2014 & 4.8.2015
2.	Thana-Kasoga	8	10.8.2015
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5.	Banethi	5	10.8.2015
6.	Kaulanwala-Bhood	8	4.8.2015
7.	Palion	4	10.8.2015
8.	Banethi	1	10.2.2015

During the course of discussions in the meeting it has been revealed that no claim and objection has been raised by any one despite publication of notices and providing reasonable opportunity. Therefore it has been observed that no right of Scheduled Tribe and other Traditional Forest Dwellers or right holders are affected adversely by such conversions under F.C.A., 1980. Hence the committee recommends and forwards the case of conversions of Forest land, if any for the construction of abovementioned proposed link roads to issue certificate under the Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights Rules, 2006) to the user department under the Forest Conservation Act, 1980.

The meeting ended with vote of thanks.



Sd/- Deputy Commissioner (C),
Nahan, District Sirmaur, H.P.

P/SCG at Form-1

FORM-1

(For Linear Projects)

Government of Himachal Pradesh

OFFICE OF THE COLLECTOR, SUB-DIVISION, NAHAN, DISTRICT SIRMAUR, H.P.

366

/0.....

Date.....

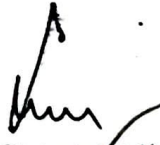
TO WHOMSOEVER IT MAY CONCERN

In compliance of the Ministry of Environment and Forests (MoEF), Government of India's letter No.11-9/98-FC(pt.) dated 3rd August, 2009 wherein the MoEF issued guidelines on submission of evidences for having initiated and completed the process of settlement of rights under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA for short) on the forest land proposed to be diverted for non-forest purposes read with MoEF's letter dated 5th February, 2013 wherein MoEF issued certain relaxation in respect of linear projects, it is certified that 3/500 Kmts. of forest land proposed to be diverted in favour of the Executive Engineer, HPPWD, Nahan (name of user agency) for the construction of Link road Bhogpur-Simbalwala (purpose for diversion of forest land) in Sirmaur District falls within jurisdiction of Khaurna, Malonwala villages (s) in Gram Panchayat Bankala Tehsil Nahan..

It is further certified that:

- (a) The complete process for identification and settlement of rights under the FRA has been carried out for the entire 0/0 to 4/0 Kmts. of forest area proposed for diversion. A copy of records of all consultations and meetings of the Forest Rights Committee (s), Gram Sabha (s), are enclosed as Annexure _____.
- (b) The diversion of forest land for facilities managed by the Government as required under Section 3(2) of the FRA have been completed and the Gram Sabhas have given their consent to it;
- (d) The proposal does not involve recognized rights of Primitive Tribal Groups and Pre-agricultural communities.

Encl: As above


Sub-Divisional Officer (C)
(Full name and official stamp of the Sub-Divisional Officer)



P/S copy of certificate - 367
1702

CHECK LIST SERIAL NO.8.
CERTIFICATE

It is certified that there is no alternative suitable non forest land available for the construction of link road from Bhogpur-Simbalwala and the use of forest land for the project is unavoidable.


Sub-Divisional Officer (C),
Nahan, District Simla H.P.

①

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CHECK LIST SERIAL NO.20.
CERTIFICATE FOR NON AVAILIBILITY OF NON FOREST LAND

*It is certified that no non forest land is available for raising compensatory afforestation. As such the compensatory shall be done in degraded forest on double the area required for the construction of L/R.
Bhogpur-Simbalwala*

[Signature]
Sub-Divisional Officer (C)
Sub-Divisional Officer (O.R.)
Nahan, District Sirmour, H.P.



(1) 11/5 Copy of C.S.O. Resolution - 1782
कार्यालय ग्राम पंचायत पालियों

ग्राम पंचायत पालियों, विकास खण्ड नाहन, जिला सिरमौर (हि0प्र0)

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दिनांक.....

नकल प्रस्ताव संख्या.....04

दिनांक..10..08..2015

ग्राम पंचायत/ग्राम सभा पालियों की मासिक/विशेष बैठक में श्री.मती.शकुन्तला देवी

प्रधान/उपप्रधान की अध्यक्षता में पास हुआ।

कोम: 04/07

विषय: लिंक रोड भोगपुर-सिम्बलवाला के निर्माण हेतु अनापति प्रमाण पत्र
वन अधिकार समिति ग्राम भोगपुर-सिम्बलवाला द्वारा जारी किए
जाने वाले:-

ग्राम पंचायत पालियों की मासिक बैठक में सर्वसम्मति से
यह प्रस्ताव पारित किया जाता है कि जो प्रस्ताव वन अधिकार
समिति ग्राम भोगपुर-सिम्बलवाला द्वारा निर्माण लिंक रोड भोगपुर-
सिम्बलवाला बनने हेतु अनापति प्रमाण-पत्र ग्राम पंचायत पालियों
को प्राप्त हुआ है। व सही है। तथा लिंक रोड बनने ग्राम पंचायत
पालियों के लोगों को फायदा होगा।

अतः उप मंडल अधिकारी (S.O.M) महोदय
नाहन जिला सिरमौर की सेवा में उपरोक्त प्रस्ताव/अनापति
प्रमाण-पत्र आवश्यक कार्यवाही एवं सूचनाएं प्रेषित है।

पंचायत प्रस्ताव की नकल कार्यवाही भुताबक
असल है।

(Suo)
पंचायत अधिकारी
ग्राम पंचायत पालियों
विकास खण्ड नाहन
जिला सिरमौर

प्रमाणित

वन अधिकार समिति ग्राम भोगपुर-सिन्धलवाला

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दिनांक 06-08-2015

उपस्थिति 15

आज दिनांक 06-08-15 को वन अधिकार समिति ग्राम भोगपुर-सिन्धलवाला की बैठक की गई और यह प्रस्ताव एक मत से संजूर एवं पास किया गया है कि निम्नलिखित भोगपुर-सिन्धलवाला विभाग द्वारा वन निर्माण किया जाना है

जिसके अन्तर्गत वन भूमि में निम्नलिखित भोगपुर-सिन्धलवाला का कार्य आवश्यक है इस कार्य के निर्माण से वन हित व ग्रामवासियों के हित किसी भी प्रकार से आहत नहीं होते हैं। ग्रामवासियों को इस कार्य निर्माण से कोई ऐतराज नहीं है और न ही आपत्तारी किसी भी प्रकार का दावा करेंगे।

वन अधिकार समिति ग्राम भोगपुर-सिन्धलवाला द्वारा संवत् 2075 चालिसे प्रस्ताव के माध्यम से उपस्थित ग्रामवासियों को अवगत कराया चाहती है कि वन अधिकार समिति के अपने व ग्रामवासियों की अन्वयता तथा अपनी सहमति बताई है।

अन्वयता सभी उपस्थित ग्रामवासियों व समस्तों को वन कर चुकाया जा रहा है व इस पर अपनी सहमति जताई है।

वन अधिकार समिति
ग्राम भोगपुर-सिन्धलवाला

सचिव सुबिता देवी
वन अधिकार समिति
ग्राम भोगपुर-सिन्धलवाला

