

Full Title of the project: - **Installation and construction of Municipal Solid Waste Management Plant at Theog**

File. No. \_\_\_\_\_

Date of Proposal- \_\_\_\_\_

**CHECK LIST SERIAL NUMBER:-15**  
**SITE INSPECTION REPORT NOT BELOW THE RANK OF DCF/ DFO**  
(For the Forestland to be diverted under FCA)

A proposal has been received by this office from Executive Officer, Municipal Council Theog for diversion (under FCA-1980) of 00-09-60 hac. of forest land for non-forestry purpose. The subject envisages the use of forestland for **Installation and construction of Municipal Solid Waste Management Plant at Theog** in Tehsil Theog Distt. Shimla. The site inspection of the land involved in the proposal has been done by me on dated 17/01/2023.


1. On inspection of the site, it was found that the land required by the user agency is a Forest area measuring 00-09-60 Hec.
2. The requirement of forestland as proposed by the user agency in Col. 2 of part -1 is unavoidable and is barest minimum required for the project.
3. Whether any rare/endangered/unique species of flora and fauna found in the area. If so, the details thereof. YES  
NO
4. Whether any protected/archaeological / heritage site / defense establishment or any other important monument is located in the area. If so, the details thereof with NOC from competent authority. NO
5. ☒ (a) The user agency has not violated the provisions of forest (Conservation) Act, 1980 and no work has been started without proper sanction.  
☒ (b) It has been found that the user agency has violated the provisions of the Forest (Conservation) Act, 1980 Indian Forest Act, 1927/any other Forest Act. A detailed report as per Para 1.9 of Chapter 1, Part C of Handbook of Forest (Conversation) Act, 1980 is attached. And the violation is admitted in CWP 5600 of 2012 dated 05.09.2013.

**Specific recommendation for acceptance or otherwise of the proposal:-**

Proposal for diversion of forestland measuring 00-09-60 ha. for construction of above Project may be accepted and approved please.

Place: - Theog

Date: - 17/01/2023.

  
Divisional Forest Officer,  
Theog Forest Division, Theog  
Office Seal  
Divisional Forest Officer  
Theog Forest Division, Theog

Full Title of the project: - **Installation and construction of Municipal Solid Waste Management Plant at Theog**  
File. No. \_\_\_\_\_  
Date of Proposal- \_\_\_\_\_

**DETAIL REPORT OF SITE INSPECTION REPORT BY DFO THEOG**

Proposed site of this Solid Waste Management Plant was inspected by me on dated 17.01.2023 along with Executive Officer, Municipal Council and concerned staff of Forest department.

As per record the proposal was first received for diversion of the proposed land in 2015 but the user agency had dumped the biodegradable waste on the site prior to the approval of GoI, and violates the provision of FCA, 1980. For this unlawful act the user agency was penalized by the forest department as well as by the National Green Tribunal during 2017-18. The copies of DRs and penalties have been collected from the Range Forest Officer and the Executive Officer of Municipal Council Theog and are enclosed. After that the proposal prepared for diversion of that land could not be processed for approval due to some reasons. But now, it pursuant to the orders of National Green Tribunal the user agency has applied for the diversion of said land again and the joint inspection of the site at D-52 Rohru was conducted again on dated 26.07.2022.

During the site inspection it has also noticed that the area is adjacent to the NH-22 and is fenced by the iron angle and iron sheets across the acquired width of NH. According to the user agency, this fencing was done by the Municipal Corporation to keep the foul smell and flow of waste away from the road and vehicles moving on the road. However, at present no smell or fresh garbage was found on the spot and user agency has also sorted NOCs from NH department as well as from the concerned Gram Panchayat Pradhan in this regard.

Nevertheless, at present no garbage dumping has been noticed on the proposed site but a shed is found constructed on the spot, hence the user agency has violated the provision of FCA, 1980. Moreover, user agency has apprised that after the orders of the Court, no garbage dumping or tampering has been done at that place, nor will it be done till the approval from the Ministry of Environment and Forests, Government of India.

Now this area is applied for diversion of 0.096 ha. forest land for Installation and construction of Municipal Solid Waste Management Plant at Theog. User agency does include the area covered by the dumpers and the shed constructed by them.

Therefore, it is recommended that the proposal for Diversion of 00-09-60 ha of Forest land is justifiable technically to make the proposed waste management plant.

Place: - Theog

Date: - 17/01/2023

  
Divisional Forest Officer,  
Theog Forest Division, Theog  
Office seal  
Theog Forest Division, Theog



# कार्यालय ग्राम पंचायत चिखड़

विकास खण्ड व तह0 ठियोग, जिला शिमला-हि0प्र0।

क्रमांक.....

दिनांक 04-05-2022

**विषय:- अनापति प्रमाण देने बारे।**

आज दिनांक 04-05-2022 ग्राम पंचायत चिखड़ के वार्ड न0 3 भोट बरेलटी में एक आम बैठक हुई इस बैठक में इस वार्ड के 140 जन संख्या में से लगभग 75 लोगों ने भाग लिया इस बैठक में निर्णय लिया गया कि सम्बन्धित वार्ड में ग्राम पंचायत चिखड़ के अन्तर्गत जंगल रोहरू में नगरपरिषद ठियोग ठोस व तरल कुड़ा प्रवन्धन का पलांट लगाना चाहती है जिसके विषय में गांव भोट बरेलटी ग्राम पंचायत चिखड़ से सिफारिश की गई थी।

इस उपरोक्त विषय के उपर सम्बन्धित वार्ड के सदस्य ने निर्णय लिया कि यह पलांट लगाना जरूरी है परन्तु इस पलांट के लगने से ग्राम पंचायत चिखड़ के जल स्रोत दूषित न हो इसका खास ध्यान रखा जाए इसके उपरान्त इस विषय पर सभी ग्रामवासीयों ने निर्णय लिया कि नगर परिषद ठियोग को यह पलांट लगाने की अनुमति सम्बन्धित विभाग प्रदान करे इसमें ग्रामवासीयों को कोई अनापति नहीं है।



BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

Original Application No. 189/2017  
(M.A. No. 723/2018)

And

Execution Application No. 42/2018  
In

O.A. No. 189/2017

IN THE MATTERS OF:

**Rakesh Keshyap**

**Vs.**

**State of Himachal Pradesh & Ors.**

**CORAM :** HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

**Present:**

**Applicant:  
Respondent**

Mr. Adab Singh Kapoor & Ms. Juhi Chawla Advs.  
Mr. Manish Kumar, Adv. for state of Himachal Pradesh  
Ms. Sakshi Popli, Adv for Mr. Mr. Divya Prakash Pande, Adv.  
Ms. Saumya Priyadarshini, Adv. for NHAI  
Mr. Ajay Marwah, AOR and Mr. Mool Singh, Adv. for Municipal Corporation

Date and Remarks	Orders of the Tribunal
Item Nos. 13 & 14 August 27, 2018 A	<p>1. This application has been filed with the following prayers:-</p> <p>"i) To direct the respondent to remove the dumping activities such as created dumping site and to put garbage over the forest land as well as to demolish the shed which is illegally constructed by the respondent over the forest land alongside National Highway No. 5 Jungal Rohru, Theog, Shimla.</p> <p>ii) To direct the respondent to plant and maintain ornament trees and natural water resources so that there may not be any scope of dumping of soil by some unknown people and putting of garbage over the forest land in future."</p> <p>2. According to the applicant, the Municipal Corporation, Theog, District Shimla has illegally permitted dumping of garbage on the forest land which is adjoining the National Highway No. 5 (NH - 5), connecting Shimla to</p>



Item Nos.  
13 & 14

August 27,  
2018

A

Rampur, at RD (Road Distance) No. 178/810, Jungal Rohru, Tehsil, Theog, Shimla, near HP PWD Circuit house. The applicant called upon respondent no. 5 Municipal Council Theog to refrain from doing so vide letter dated 03.11.2016 but to no effect. A news item was also published in the last week of January, 2017 to this effect. Dumping of garbage on forest land adversely impacts the forest and the environment and is illegal.

3. On 19.06.2017, this Tribunal directed that no waste will be dumped at the site in question.

4. On 30.11.2017, it was observed that the Municipal Council should ensure that the waste is segregated and deposited in a proper way by covering with mud and spraying disinfectants from time to time. Thereafter, on 09.05.2018, this Tribunal directed that order dated 19.06.2017 will continue.

5. It is undisputed that the forest land cannot be used as dumping site for garbage.

6. Learned Council for the applicant relies on judgement dated 24.10.2016 in Original Application No. 186 of 2013, of this Tribunal where the Tribunal took coercive action against the Municipal Council concerned after finding that the Municipal Council was acting in violation of the orders of this Tribunal. He states that coercive action be taken in the present case also.

6. Only plea taken in the present case by the Municipal Council is that it has applied for the dumping site being excluded from the forest area. Making of such an application cannot be an excuse to use the forest area

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13 & 14

August 27,  
2018

A

as dumping site. It is not disputed that even today the area continues to be forest area. It is, thus, clear that even on admitted facts the action of the Municipal Council Theog is not only illegally but also in violation of orders of this Tribunal.

7. Accordingly, we restrain Municipal Council from dumping garbage at the site and direct it to shift it to any other appropriate site as per Solid Waste Management Rules, 2016. We also note that under Section 2(ii) of the Forest (Conservation) Act, 1980 provides that no forest land can be used for non-forest purpose except with the prior approval of the Central Government. Admittedly, no such prior approval of the Central Government has been taken for converting the forest land into the garbage dumping site.

8. In view of the clear violation of mandate of law as well as orders of this Tribunal, we direct Municipal Corporation to pay compensation of Rs. 5 Lakhs. The applicant will be entitled to a sum of Rs. 25,000/- towards cost out of the remaining, 75 % of the amount be deposited with State Pollution Control Board and 25% with the CPCB. It is made clear that Secretary of Urban Development, State of Himachal Pradesh will be responsible for enforcement of this order.

9. Learned counsel for the State of Himachal Pradesh states that the order being passed today will be strictly enforced. The site may be shifted within one month from today. If it is not done, it will be open for the Applicant to move this Tribunal and the Tribunal may consider



stopping of the salary of the Secretary of Urban Development for non-compliance of the orders of this Tribunal.

Item Nos.  
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August 27,  
2018

A

Accordingly the application stand disposed of.

....., CP  
(Adarsh Kumar Goel)

....., JM  
(Dr. Jawad Rahim)

....., JM  
(S.P. Wangdi)

....., EM  
(Dr. Nagin Nanda)

27.08.2018



Form G. 13]

## CONTINGENT BILL

[Rules 178 and 1

Municipal Committee/  
CorporationDetailed bill of Contingent  
Charges of the Month of 20

Head of Charge

No. of Voucher

Serial number of Sub-Vouchers	Description of charge and number & date of authority for all charges requiring special sanction	AMOUNT Rs. P.
	<p>Payment of Compensation / Cont- Awarded as per Hon'ble NAT order dt 27/8/18</p> <p>1) Sr. Rafter Kanyap Dunder GP Childan</p> <p>2) Sr. Environmental Engineer HD State Pollution Control Board. Lucknow</p> <p>3) Member Secy. Central Pollution Control Board Delhi</p> <p>A 118077, Secy. Home 2795/1, C.P.C.B. Joh</p>	<p>20718</p> <p>25000/-</p> <p>356200</p> <p>118700</p> <p>50000</p>
	In words	Til 50000

Also Certified that the expenditure charged in this bill could not with due regard to the interests of the Municipal Committee/Corporation, be avoided. I have satisfied myself that the charges supported by sub-vouchers entered in this bill have been really paid with the exceptions noted below, which exceed the balance of the permanent advance, and will be paid on receipt of the money drawn on this bill.

Dated ..... Name .....



Rgd.  
1147

No. Paid voucher for 9 /18/MC/2018-  
Office of the Municipal Council, Theog,  
Distt., Shimla Himachal Pradesh.

Dated Theog the 20 September 2018

The Member Secretary,  
Central Pollution control board Parivesh Bhawan East Arjun Nagar Delhi-110032  
Regarding implementation of orders of Honble NGT dt 27<sup>th</sup> August, 2018 passed in the  
O.A.No.189/2017 (M.A. No.723/2018 and Execution application NO.42/2018

Subject:-

Sir,

Please find enclosed herewith bank draft No.....000464.....  
dated.....20/9/18.....amounting to Rs.118750/(Rupees One lac eighteen thousand seven hundred fifty  
)only issued in favour of yourself on account of payment of compensation amount awarded by the Hon,ble NGT  
vide their order dt. 27<sup>th</sup> August, 2018 (Copy enclosed for ready reference please )

Kindly acknowledge receipt for office record please.

Yours faithfully,

  
Executive Officer

Municipal Council, Theog

Pin - 171201

Tel-01783238203

Enclosure: As above

# CONTINGENT BILL

[Rules 178 and 183.]

Municipal Committee/  
Corporation

Detailed bill of Contingent  
Charges of the Month of 20

No. of Charge	Description of charge and number & date of authority for all charges requiring special sanction	No. of Voucher	AMOUNT Rs. P.
2 (1)	Payment of Commission / Cont- inued as per Hon'ble NAT order dt 27/8/18.	214	20 28
1)	Sr. Rafter Kanyas Bunder GP Children	317	25000/-
2)	Sr. Environmental Engineer. HP State Pollution Control Board. Smt. S.	317	356250/-
3)	Member Secy. Central Pollution Control Board. Delhi	317	118750/-
In words		Five thousand	

Also Certified that the expenditure charged in this bill could not with due regard to the interests of the Municipal Committee/Corporation, be avoided. I have satisfied myself that the charges supported by sub-vouchers entered in this bill have been really paid with the exceptions noted below, which exceed the balance of the permanent advance, and will be paid on receipt of the money drawn on this bill.

Date ..... Name .....

Pay Rupees  
Examined.

Accountant.

Office

Municipal Council  
Distt. 20 (H.P.)

President of Administrator or Member  
of the Executive Officer.



N2 68 1806390 43499. Br. Arson  
N 2 68/806 390 49799  
Br. 35627

No. Paid voucher for 9 /18/MC/2018  
Office of the Municipal Council, Theog.  
Distt., Shimla Himachal Pradesh.

Dated Theog the August, 2018  
24th Sep.

The Branch Manager,  
HDFC Theog

Vr 317 378  
28/8/18

Subject:-

Transfer of funds / amount / fees / Hon.charges on account of payment of Misc bills etc. from Account NO. 50100067775469 through RTGS. to the concerned accounts mentioned below.

Sir,

Please transfer a sum of Rs 38,12,500/- Rupees Three Lacs only as per the detail given hereunder only from account NO. 50100067775469 through inter bank transfer RTGS to the below mentioned Saving/current bank account NO. and IFS code of the concerned maintained in your bank as well as concerned bank on account of payment of bill/purpose/remuneration amount etc. shown against each as under :-

Sr. NO	Name of beneficiary	Bill No. & date / purpose for which payment made	Amount	Name of bank	IFSC code	Account No.
1	Sh Rakesh Kashap Sr. E.E. HP	Cost of case as per orders of Tribunal dt. 27 <sup>th</sup> August, 2018	25000	CANARA Bank Chy	CNRB0005086	5064 101000792
2	State Pollution control board Shimla-9	Compensation awarded by the Honble tribunal NGT vide order dt. 27 <sup>th</sup> August, 2018	356250	SBI Karnali Samle S.	SBIN 0014639	652023793737

TTL: 38,12,500

Yours faithfully

92

(Rupees three lac Eighty one thousand two hundred fifty)

LG -  
Executive Officer  
Municipal Council, Theog

Endst.No. As above Dated Theog

the 24/9 Sep, 2018

Copy forwarded to the concerned for favour of information :-

1. Member Secretary H.P. State Pollution control board Shimla in compliance to order dated 27<sup>th</sup> August, 2018 passed by the Honble NGT Nerw Delhi for favour of information and acknowledge the receipt/ convey confirmation about the payment received being transferred through RTGS on account of compensation awarded in the O.A.No. 1879/2017 in the matter of Rakesh Kashyap Vs State of HP and Others.

2 Central Pollution Board Honble NGT Nerw Delhi for favour of information and acknowledge the receipt/ convey confirmation about the payment received being transferred through RTGS on account of compensation awarded in the O.A.No. 1879/2017 in the matter of Rakesh Kashyap Vs State of HP and Others.

Member Secy / Chair



92



3. Shri Rakesh Kashyap President GP Chikharh PO Chikhras in compliance to order dated 27<sup>th</sup> August, 2018 passed by the Honble NGT New Delhi for favour of information and acknowledge the receipt/ convey confirmation about the payment received being transferred through RTGS on account of cost awarded by the Honble tribunal in the matter in question.

UG

Executive Officer

Executive Officer Municipal Council, Theog  
Municipal Council, Theog