

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

05.09.2013

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. 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

None 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.

Heard counsel for the parties.

2. We have perused the minutes of the proceedings of the joint meeting held on 19th August, 2013, attended by all the concerned duty holders noted in our order dated 8th August, 2013. Since, in principal, agreement has been reached for regularization of 841 roads subject to certain compliances to be made by the State Government and

that process is likely to take some time, we have no hesitation in deferring the hearing of this matter for the time being till 30th December, 2013, for reporting of further action taken by the concerned duty holders.

3. Learned Assistant Solicitor General of India submitted that the MoEF is of the opinion that in addition to 841 roads, referred to in the order dated 8th August, 2013, by this Court, it is possible that there are other roads, which are not included in the list of 841 roads. That figure may jump to around 1500. In other words, there are more than 660 roads, which have not been brought to the notice of the MoEF as of today.

4. The learned Advocate General appearing for the State submits that this apprehension will be duly examined at the highest level by the State Government and the information that would be collated during such enquiry, the Principal Secretary (PWD) to the Government of Himachal Pradesh shall submit that information to the MoEF not later than two months from today. The State Government, through learned Advocate General, undertakes to abide by all the conditions specified in the minutes of the joint meeting held on 19th August, 2013, even with regard to the unlisted roads of which information will be furnished by the State Government in due course.

5. In view of this assurance given by the State Government, we do not deem it necessary to issue any direction on that issue as of now.

6. Learned Assistant Solicitor General of India then invited

our attention to Clause (x) of the minutes and pointed out that the State Government be directed to submit the list of officers responsible for violation.

7. In our opinion, insistence of this compliance will be counter productive at this stage. In our order, dated 8th August, 2013, we have already kept the order dated 28th August, 2009, in abeyance. Necessity of furnishing list of officers of the State Government responsible for violation would arise only if the said order was to be revived and the abeyance order is recalled.

8. In the circumstances, we hope that the officials of MoEF or any other department of the Government of India shall not insist for compliance of furnishing the names, designations and complete addresses of the officers of the State Government responsible for past violations.

9. Accordingly, this matter be notified on 30th December, 2013. The arrangement directed in terms of order dated 8th August, 2013, to continue till further directions.

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(A.M. Khanwilkar)
Chief Justice

(Kuldip Singh)
Judge

September 5, 2013
(rajni / vt)

26.07.2013

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

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

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CWP No. 9797 of 2012

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

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

COPC No. 56 of 2009

None for the petitioner.

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

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

CWPs No. 5600 & 9797 of 2012

Considering the fact now revealed by the learned Advocate General across the Bar that it has come to light that in all, approximately 829 roads have been constructed without taking prior permission, prior to August 2009. Since those roads are already put to public use and it will not serve public interest by closing those roads or directing to remove the same, the State Government, in principal, is

inclined to move a formal proposal to the Ministry of Environment to ratify the action of construction of those roads undertaken by the State Government in good faith on such conditions, as may be permissible in law, including by imposing environmental damage compensatory costs and further direction to put up retention walls in certain areas, which need strengthening and upon compliance of such conditions, a formal ex-post facto sanction can be granted in respect of those roads.

2. We are inclined to accept this submission in public interest, provided such authority vests with the Ministry of Environment in law. If such proposal is moved by the State Government, appropriate decision thereon can be taken within reasonable time and preferably within six weeks from its receipt. The Ministry of Environment will be free to examine the said proposals uninfluenced by the orders passed by this Court in COPC No. 56 of 2009 or any other order passed in the companion proceedings. The decision taken by the Ministry of Environment, however, will be subject to the outcome of the present proceedings and can be given effect to only after the Court so directs.

3. We make it clear that if the State is required to pay compensatory costs, if so ordered by the Ministry of Environment, Government of India, the manner of recovery of such compensatory costs and from persons responsible for the situation can be evolved by the State Government and even that proposal can be submitted to the Court, if so required.

4. To be listed on 8th August, 2013.

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COPC No. 56 of 2009

Not on Board. Upon mentioning, taken on Board. To be listed on **8th August, 2013**, alongwith CWP No. 5600 of 2012.

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(A.M. Khanwilkar)
Chief Justice

(R.B. Misra)
Judge

July 26, 2013
(rajni / vt)

High Court of MP