



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

26.07.2013

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

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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.

-: 3 :-

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.

Copy **dasti**.

(A.M. Khanwilkar)
Chief Justice

(R.B. Misra)
Judge

July 26, 2013
(rajni / vt)