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No. PWD-CHW/WA / 2024-25-

To

HIMACHAL PRADESH  
PUBLIC WORKS DEPARTMENT

1356-57

Dated:-

14/6/2024

The Divisional Forest Officer,  
Dalhousie Distt. Chamba (HP).

**Subject: -** Diversion of 3.64 hectare of forest land in favour of HPPWD for C/o link road to village Dangardi within the jurisdiction of Dalhousie forest Division Distt. Chamba. (online proposal No EP/P/Road/43801/2020), Dalhousie forest Division

**Reference:-** Your office letter No. 10044 dated 27.02.2024

Please refer to your office letter under reference in which information regarding action taken against the defaulting officials who have violated FCA 1980 was sought. It is submitted that above work appear as Sr. No. 167 under SE 7<sup>th</sup> Circle Dalhousie detail of 2183 Nos list of roads which have been construct under violation of FCA 1980 ( Copy enclosed).

In this regard it is submitted that defaulting official had been exempted as per direction passed on 08.08.2013 and 5.09.2013 in CWP No. 5600 of 2012 a/w CWP No. 9797/2012 and COPC No. 56/2009 by the Hon'ble High Court ( Copy enclosed)..

It is for your kind information please.

DA/As above.

~~Executive Engineer,~~  
Chowari Division,  
HPPWD, Chowari.

Copy forwarded to the Superintending Engineer, 7<sup>th</sup> Circle, HPPWD, Dalhousie for information please.

Executive Engineer,  
Chowari Division,  
HPPWD, Chowari.

Sr. No.	Name of Division	Name of the road	Total length of road (kms)	Starting (Name)	Present status whether completed or in progress	GPS coordinates at Strategic point	Mid point of road length or village/important location along the road	Whether road appeared in list of 161 roads as per	Whether road appeared in list of 61 roads as per	Latest Status of FCA Case #	Remarks	
1	2	3	4	5	6	7	8	9	10	11	12	13
167	Bhatiyal	Link road to VAI Dargah km 0/0 to 1/0.	1.00km	Sarpha Nalla	Completed	32° 23' 799" 75° 56' 608"	32° 23' 984" 75° 56' 517"	32° 23' 951" 75° 56' 606"	No	No	Revenue Paper not yet Completed by concerned A/E	1. The work was undertaken considering it to be Govt. Land. 2. There was no malefic intrusion in construction of this road and was constructed for us of general public. 3. The schem was properly sanctioned by the Govt. of H.P. of India and the road was constructed utilising public funds provided by the Govt. 4. The Construction was not objected by any statutory body/ Dept. /others NGOs 5. The alignment was on the already existing path and no gm filing was done during construction.
168	Bhatiyal	Link road Kalam Khad to Sarma Salch Road km 0/0 to 1/20	12.00km	Kalam Khad	Completed	32° 25' 404" 76° 01' 130"	32° 24' 332" 75° 58' 830"	32° 24' 766" 76° 00' 434"	No	No	Revenue Paper not yet Completed by concerned A/E	1. The work was undertaken considering it to be Govt. Land. 2. There was no malefic intrusion in construction of this road and was constructed for us of general public. 3. The schem was properly sanctioned by the Govt. of H.P. of India and the road was constructed utilising public funds provided by the Govt. 4. The Construction was not objected by any statutory body/ Dept. /others NGOs 5. The alignment was on the already existing path and no gm filing was done during construction.
169	Bhatiyal	Link road to Vill. Matiyar to Lahar km 0/0 to 0/540	0.540 km	Matiyar	Completed	32° 27' 071" 95° 59' 214"	32° 27' 123" 95° 59' 226"	32° 27' 105" 76° 59' 218"	No	No	Revenue Paper not yet Completed by concerned A/E	1. The work was undertaken considering it to be Govt. Land. 2. There was no malefic intrusion in construction of this road and was constructed for us of general public. 3. The schem was properly sanctioned by the Govt. of H.P. of India and the road was constructed utilising public funds provided by the Govt. 4. The Construction was not objected by any statutory body/ Dept. /others NGOs 5. The alignment was on the already existing path and no gm filing was done during construction.
170	Bhatiyal	Link road Banooi to Awan km 0/0 to 3/0.	3.00km	Banooi	Completed	32° 27' 502" 75° 59' 891"	32° 28' 483" 76° 00' 565"	32° 27' 943" 76° 00' 006"	No	No	Revenue Paper not yet Completed by concerned A/E	1. The work was undertaken considering it to be Govt. Land. 2. There was no malefic intrusion in construction of this road and was constructed for us of general public. 3. The schem was properly sanctioned by the Govt. of H.P. of India and the road was constructed utilising public funds provided by the Govt. 4. The Construction was not objected by any statutory body/ Dept. /others NGOs 5. The alignment was on the already existing path and no gm filing was done during construction.
171	Bhatiyal	Link road to Lohall Km. 0/0 to 0/615	0.615	Upper Lohall	0/0 to 0.615 work in progress	32° 32' 002" 75° 58' 785"	32° 31' 949" 75° 58' 792"	32° 31' 965" 75° 58' 857"	No	No	Revenue paper completed & proposal folder is under preparation with concerned A/E	1. The work was undertaken considering it to be Govt. Land. 2. There was no malefic intrusion in construction of this road and was constructed for us of general public. 3. The schem was properly sanctioned by the Govt. of H.P. of India and the road was constructed utilising public funds provided by the Govt. 4. The Construction was not objected by any statutory body/ Dept. /others NGOs 5. The alignment was on the already existing path and no gm filing was done during construction.
172	Salooni	Link road to village Bilwari.	2.185	Laroi	Completed	32° 44' 30.8" 76° 03' 53.4"	32° 44' 17.2" 76° 03' 42.5"	32° 44' 22.4" 76° 04' 02.7"	No	No	Revenue paper under preparation.	1. The road work has been done on the existing path assuming the land for the road construction as Government land. 2. There was already existing path on the constructed road. 3. Construction was done with donated intention of providing connectivity to the poor of the poor village(s). 4. The road schem is generally sanctioned by the Government for the construction. 5. The road work has been done on the existing path assuming the land for the road construction as Government land. 6. There was no demarcation identify Dmvt Government and forest land. 7. There was no demarcation identify Dmvt Government and forest land. 8. No Statutory authority/department/Paradeval Raj



**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

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 28<sup>th</sup> 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 28<sup>th</sup> 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 5<sup>th</sup> 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 28<sup>th</sup> August, 2009 in COPC No. 56 of 2009, referred to above.

8. The learned Advocate General assures the Court that in

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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 19<sup>th</sup> 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)



**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 19<sup>th</sup> August, 2013, attended by all the concerned duty holders noted in our order dated 8<sup>th</sup> 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 30<sup>th</sup> 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 8<sup>th</sup> 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 19<sup>th</sup> 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 8<sup>th</sup> August, 2013, we have already kept the order dated 28<sup>th</sup> 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 30<sup>th</sup> December, 2013. The arrangement directed in terms of order dated 8<sup>th</sup> August, 2013, to continue till further directions.

Copy dasti.

(A.M. Khanwilkar)  
Chief Justice

(Kuldip Singh)  
Judge

September 5, 2013  
(rajni / vt)