HIMAHCAL PRADESH
PUBLIC WOKS DEPARTMENT
HP.PWD Division Ghumarwin, Distt. Bilaspur(H.P)-174021
Tel:01978-255281, e-mail id: ee-ghu-hp@nic.in

NO;-PW/GHD/CB/WA/FCA/2023- 7478-80 Dated:- 27/9/2023

To

The Divisional Forest Officer,
Bilaspur Forest Division,
Distt. Bilaspur (HP).

Subject;- Diversion of 2.178 hect. of forest land in favour of H.P.P.W.D. for the construction of Panyala to Tiun Khas road K.M. 0/0 to 5/500 within the jurisdiction of Bilaspur Forest Division to be dealt as per Hon'ble High Court CWP No. 5600 of 2012,CWP NO. 9797 of 2012 and COPC No. 56/2009.

Reference:- Your office online essential detail sought dated 20-04-2023.

With reference to your office letter under reference on the subject cited above, it is intimated that the Forest case of the road namely Panyala to Tiun Khas K.M. 0/0 to 5/500 is to be processed as per the direction of Hon'ble Hight court in CWP No. 5600 of 2012,CWP NO. 9797 of 2012 and COPC No. 56/2009. The above said road is appearing at Sr. No. 135 in the list of 2183 roads vide which the violation case of FCA has already been reported to the Hon'ble High Court of HP (Copy attached).

In pursuance of the orders dated 8th Auguest and 5th Sepetember 2013 passed by the Hon'ble High court of Himachal Pradesh, the Government of Himachal Pradesh has constitute a committee to carry out inspection of roads in accordance with the guidelines vide notification No. FFE-B-F-(3) -31/2012 dated 24 Oct. 2013 (Copy attached). Accordingly the joint inspection of the subject cited road has been conducted on 04 April 2014 in the chairmenship of the conservator of Forest Bilaspur, Forest Circle Bilaspur HP (Copy attached).

It is therefore, requested that necessary approval in this case may please be obtained,so that further action in the matter could be taken accordingly.

Executive Engineer,
Ghumarwin Division,
H.P.P.W.D. Ghumarwin.

Copy to the Superintending Engineer, 10th Circle HP.PWD., Bilapsur for information please.

Copy to the Assistant Engineer, HP.PWD., Sub-Division Bharari for information and necessary action.

Executive Engineer,
Ghumarwin Division,
H.P.P.W.D. Ghumarwin

MOST URGENT
PERSONAL ATTENTION

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-RO(C)/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.

F(FCA)

This may treated as most urgent being High Court matter.

पत्र सं० 3797
दिनांक 25-11-13

Yours faithfully,

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

Endst. No. As above. Dated Shimla-171002, the 27 November, 2013.

Copy forwarded to:-

1. The Pr. Secretary (Forests) to the Government of Himachal Pradesh for information.
2. The Principal Chief Conservator of Forests, T.Head, H.P. Shimla-1 alongwith list of 2183 roads constructed in violation of [illegible] for 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.

5819
4-12-13

IMMEDIATE

Endst. No.No.Ft.42-163/2013 (FCA) Dated Shimla-171001,the 07 DEC 13

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

P-188
P-256

8.12.2013

Encls: as above

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

CF Bilaspur

Endst No. D-VI-1(M)Part-C/7608-10 dated 13-12-13
copy along with enclosures is forwarded to all DFOs for information & necessary action as desired above. This also connects to this office P-188 endst: of even No. 6640-41 dtd. 8/11/2013.

Encls:- As above

CF Bilaspur
12/12/2013

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 Stretegic point: Starting point	End point	Mid point of road length or villages/important location along the road	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
	1	2	3	4	5	6	7	8	9	10	11
134	Bilaspur No.I	Link road to Village Dhadat Palela from Ghatu Trifalghat road Km.0/0 to 3/0.	3.000	Jarli Mod.	Some trace constructed	31°28'11.74" 76°46'32.87"	31°28'29.22" 76°46'45.62"	31°28'35" 76°47'10"	No	No	This road was constructed [illegible] under F.C.A of this [illegible]
135	-do-	Paniyala to Tun Khas. Joi Plakhin Mehran road Km.0/0 to 10/0.	10.000	Paniyala	-do-	31°29'12.33" 76°43'24.65"	31°28'46.°5" 76°44'6.79"	31°29'52" 76°44'32"	No	No	-do-
136	-do-	Dhingu to Sukdi road Km.0/0 to 3/0.	3.000	Dhingu	-do-	31°23'57.89" 76°42'15.22"	31°23'38.95" 76°43'7.78"	31°24'14.98" 76°42.88'8.16"	No	No	-do-
137	Bilaspur Division No II	C/O link road to Khal Tibba from Sh.Naina-Devijee Bhakra road km 0/0 to 6/0	6.000	Khal	In Progress	31°21' 24.49" 76°29'52.95"	31°22' 11.62" 76°30'12.21"	31°21' 15.11" 76°30'02.28"	No	No	Partly Violated by other Agency
138	-do-	"C/o road from Dhalet to Rod Jaman" on 10.2.2009.	5.000	Dhalet	In Progress	31°21' 52.81" 76°28'18.39"	31°20' 17.52" 76°28'06.37"	31°20' 41.20" 76°27'56.16"	No	No	Partaly Violated by other Agency
139	-do-	C/O link road from NH-21 to Sanan km. 0/0 to 6/0	6.000	NH-21 at RD 82/900	In Progress	31°12' 46.94" 76°39'02.05"	31°12' 53.79" 76°41'08.02"	31°12' 50.92" 76°39'32.60"	No	No	Partaly Violated by other Agency
140	-do-	C/O link road from charrol to Baddu.	4.465	Chharol	In Progress	31°15' 22.07" 76°46'05.42"	31°15' 25.76" 76°47'03.37"	31°15' 58.28" 76°45'58.45"	No	No	Partaly Violated by other Agency
141	-do-	C/O link road from Jamli to Dalog Burrel Kalaulighat village via G.P Chharol	4.500	Jamli	In Progress	31°14' 10.66" 76°46'39.24"	31°14' 58.33" 76°46'59.45"	31°14' 34.20" 76°46'52.01"	No	No	Partaly Violated by other Agency

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 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

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)

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.

Copy **dasti.**

(A.M. Khanwilkar)
Chief Justice

(Kuldip Singh)
Judge

September 5, 2013
(rajni / vt)

Government of Himachal Pradesh
Department of Forests

No.FFE-B-F-(3)-31/2012 Dated Shimla-171002, the

NOTIFICATION

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 HP and Ministry of Environment of Forests, Govt. of India held on 19.08.2013 in pursuance of the orders dated 8th August and 5th September, 2013 of Hon'ble High 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 of the area : Member Secretary

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

i) Carry out inspection of all roads referred to 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.

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 of the area : Member
3. Divisional Forest Officer of the area : Member
4. Representative of Deputy Commissioner (not below the rank of SDM) : Member
5. Executive Engineer of the area : Member Secretary

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

i) Carry out inspection of all roads referred to 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.

iii) Indicate necessity of undertaking construction of the remaining part yet to be constructed and explore possibility of including minimum forest land/trees for the remaining part.

iv) 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

Principal Secretary (Forests) to the Government of Himachal Pradesh

Endst. No. As above. Dated Shimla-1, the 24 OCT 2013

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

1. The Principal Secretary (Revenue) to the Govt. of Himachal Pradesh, Shimla-2.
2. The Principal Secretary (PWD) to the Govt. of Himachal Pradesh, Shimla-2.
3. The Principal Chief Conservator of Forests, (HoFF), Shimla-1.
4. Engineer-in-Chief, HPPWD, HP Shimla-1.
5. All Deputy Commissioners in Himachal Pradesh.

24/10/13

Under Secretary (Forests) to the Government of Himachal Pradesh

No. PW(CE(H2))WS|WA-5|Forest Cases|2013- HPPWD 9305-07 Dated. 30/10/2013

Copy forwarded to all the Superintending Engineers HPPWD. Working under this Zone for information and necessary action

Superintendent Gr-I,
O/o Chief Engineer (HZ),
HP. PWD, Hamirpur

Dhaun

HP PWD

No- SE-10th-BLP-WS-WA-IV/Forest cases/2013 8451-53 Date 4/11/13

Copy alongwith its enclosures is forwarded to all the Executive Engineers Under this Circle for information and necessary action,

Dharam

REPORT OF COMMITTEE FOR THE CONSTRUCTED IN VIOLATION OF THE PROVISION OF FOREST CONSERVATOR ACT 1980

(Constituted vide judgment of the Hon'ble high court of Himachal Pradesh in CWP No.5600 of 20 dated September 05,2013 titled "Sh.Manoj Kumar S/O Shri Shiv Charan Vs UOI and others " linked to COPC No.56 of 2009)

Date of inspection: 4th April 2014

S. No.	Description	Remarks.
1	Name of the Circle/District/Division/Tehsil /Range.	Bilaspur/Bilaspur Bilaspur/Ghumarwin/Ghumarwin.
2	Name of the road	C/O link road Paniala to Tuin Khas (Grawasra) km 0/0 to 5/500
3	Total length of the road passing through the forest area and private area.	5.500km
4	Length of the road for which forest land has already been broken/ constructed.	1/870 to 5/500 =3.630 Km. Existing width is to 3.00m to 3.50m Mtrs. It is required to be widened upto 5 to 7 Mtr.
5	Length of the road and extent (In hectare) passing through forests.	2.178 Hectare
6	Date of starting the work.	during the year 1979.
7	Name of the organization which constructed the road.	Fire line constructed by the forest department
8	For completion of the work, whether there is need to use additional forest area or alignment can be changed without further use of forest land.	3.630 Km. Is left for completion and there is no other alternate to it.
9	If not, total length of the road and forest area required for completing the work.	Total Length=5.500 Km. Forest area required=2.178 hect.
10	Details of the damages caused to bio-diversity including number of trees felled other then breaking the earth (which is already covered under point 5 above).	So far, no damage has been caused to bio-diversity as only earth cutting through barren land has been done.

11	Detail of the soil conservation/engineering works necessary on the upper and lower sides of the road for its strengthening and avoiding landslides.	Retaining walls and breast walls will be provided Soil conservation works /bio-Engineering works will be required along the 0.180 mtr length of fresh road.
12	Estimated expenditure for carrying out these engineering works.	Rs 12.00 lacs
13	Recommendation of the committee.	

The proposed C/O link road Village Gharwsara Tuin Khas & Jolplakhin km 0/0 to 3/630 is about 3.630 km long and out of this, 3.630 km has been constructed by the forest department as fire line and maintained by Gram Kothi under various development activities . This old fire line path is to be to widened at places and now is to be made motorable. The status of land is un-demarcated protected forest hence approval under Forest Conservation Act 1980 is required. The constructed part didn't have tree growth, hence illicit felling is ruled out .For the construction of this proposed road some soil conservation works will be required which will cost Rs.12.00 Lac.

Conservator of Forest
Bilaspur Forest Circle
Bilaspur (H.P.)
(Chairman)

Superintending Engr.
10th Circle, HP.PWD.,
Bilaspur (H.P.)
(Member)

Div. Forest Officer
Bilaspur Forest Div.
Bilaspur(HP)
(Member)

Sub. Div. Magistrate
Ghumarwin, Distt.
Bilaspur(HP)
(Member)

Executive Engineer
Ghumarwin Division
HPPWD Ghumarwin
(Member Secretary)