

**HIMACHAL PRADESH
PUBLIC WORKS DEPARTMENT**

No.PW/TDD/WA/F-9/2023-24- **8853-55**

Dated: - **12/9/23**

To

The Divisional Forest Officer,
Forest Division Hamirpur,
Distt. Hamirpur H.P.

Subject: -

Diversion of 0.2534 ha of forest land in favour of HPPWD, for the construction of link road from Bharmeli to village Swahal (Kms. 0/00 to 0/375) within the jurisdiction of Hamirpur Forest Division, Distt.Hamirpur, Himachal Pradesh., re-submission of case after attending the observations thereof.

Reference: -

Online proposal no-FP/HP/ROAD/154463/2021 received on 12/06/2023.

Please refer to office letter received under reference on the subject cited matter. In this regard, it is submitted that the observations pertaining to this office are being attended as under: -

Sr.No	Observation Raised	Reply of User Agency
1	Project approval letter of the extant proposal is required to be uploaded	Project approval letter of the extant proposal is being submitted and uploaded.
2	From additional document no. 10 of Part-I, it is understood that the extant proposal is appearing in the list of 2183 no. of cases supplied by HPPWD to Hon'ble High Court of Himachal Pradesh for regularization. In this regards, relevant copy of Hon'ble High Courts Order may be provided.	All the relevant documents pertaining to this observation are being submitted and uploaded on the web portal.
3	Undertaking for payment of Penal NPV is required to be uploaded.	Undertaking for payment of Penal NPV is being uploaded and submitted.
4	The relevant documents pertaining to CA has not been uploaded in concerned columns in Part II including KML file. Needful in this is required to be done.	This observation pertains to your good Office.
5	The CA scheme shall be revised for 507 plants.	This observation pertains to your good Office.
6	The legal status of the CA land is required to be clarified, whether it is a wasteland declared as protected forest as per 1952 Notification of Himachal Pradesh Government or it is forest land as per IFA 1927. The land revenue records of the land proposed for CA land may be uploaded.	This observation pertains to your good Office.
7	In SIR of DFO violation has been reported. Therefore following clarification/documents may be asked from State Govt:- (i)The Action Taken Report against the violators as per Para 1.21 (i) and/ or (ii) of FCA Guidelines may submitted/ uploaded in the portal.	This observation pertains to your good Office.

Encl: Undertaking to Pay Penal NPV,
and Documents related to Observations Raised at point No.2.

Anand Arora
Executive Engineer,
Tauni Devi Division
HPPWD Tauni Devi

Copy to the Superintending Engineer, 8th Circle, HP;PWD., Hamirpur for information and necessary action please

Copy to the Assistant Engineer, Sujampur sub-division, HP;PWD., Sujampur for information and necessary action.

Executive Engineer,
Tauni Devi Division
HPPWD Tauni Devi



IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No. 5600 of 2012 a/w CWPs No. 9797 of 2012 & 6809 of 2013.

Date of Decision : 06.09.2014

1. CWP No. 5600 of 2012

Manoj KumarPetitioner
 Versus
 Union of India & others ...Respondents

2. CWP No. 9797 of 2012

Keshav Negi & othersPetitioners
 Versus
 Union of India & others ...Respondents

3. CWP No. 6809 of 2013

Liaq Ram ShyamPetitioner
 Versus
 Union of India & others ...Respondents

Coram:

**The Hon'ble Mr. Justice Mansoor Ahmad Mir, Chief Justice.
 The Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge.**

Whether approved for reporting?¹

CWP No. 5600 of 2012

For the petitioner : Mr. Ajay Sharma, Advocate.

For the respondents: Mr. Ashok Sharma, Assistant Solicitor General of India, for respondent No. 1.

Mr. Shrawan Dogra, Advocate General with Mr. Romesh Verma, Mr. V.S. Chauhan, Additional Advocate Generals and Mr. Kush Sharma, Deputy Advocate General, for the respondents No. 2 to 8.

Mr. C.N. Singh, Advocate, for respondent No. 9.

Mr. Arvind Sharma, Advocate, for respondent No. 10.

¹ *Whether the reporters of Local Papers may be allowed to see the judgment?*

CWP No. 9797 of 2012

For the petitioners : Mr. B.C. Negi, Advocate.

For the respondents: Mr. Ashok Sharma, Assistant Solicitor General of India, for respondent No. 1.

Mr. Shrawan Dogra, Advocate General with Mr. Romesh Verma, Mr. V.S. Chauhan, Additional Advocate Generals and Mr. Kush Sharma, Deputy Advocate General, for the respondents No. 2 to 6.

Nemo for respondents No. 7.

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

CWP No. 6809 of 2013

For the petitioners : Mr. B.M. Chauhan, Advocate, for the petitioner.

For the respondents: Mr. Ashok Sharma, Assistant Solicitor General of India, for respondents No. 1 & 2.

Mr. Shrawan Dogra, Advocate General with Mr. Romesh Verma, Mr. V.S. Chauhan, Additional Advocate Generals and Mr. Kush Sharma, Deputy Advocate General, for the respondents No. 3 to 5.

Mansoor Ahmad Mir, Chief Justice (Oral)

In compliance to the order dated 23.07.2014, respondent No. 5-Chief Conservator of Forests, Dharamshala has filed affidavit in CWP No. 5600 of 2012. It is apt to reproduce paras-3, 4 & 5 of the aforesaid affidavit herein:-

- "3. That the spot has been got inspected on 07.08.2014 through Sh.Narender Singh Forest Ranger, Dharamshala and during the spot inspection, it has been found that both the paths mentioned in the present CWP are found fenced with proper fencing which was done

earlier by the department. There is no alteration or damage to the fence. No new work or violation has been found on the spot. Total 250 plants planted in the forest land in question were found surviving on the spot and the plantation is being maintained by the department every year. (Report of Range Forest Officer, Dharamshala is enclosed as Annexure -1).

4. It is, further submitted that concerned Block Officer, Sh. Guldish Chand Dy. Ranger and Beat Guard, Sh. Sachin Kumar were charge-sheeted vide C.F. Dharamshala letter No.10021 dated 02.03.2013 (copy enclosed as Annexure-II). Sh. Ram Kumar Dogra, HPFS was appointed as Inquiry Officer vide Conservator of Forests, Dharamshala Office Order No. 43/CF/2013 dated 26.06.2013 (Copy enclosed as Annexure-III).
5. The Inquiry Officer, Sh. Ram Kumar Dogra, HPFS T.A. to CCF Dharamshala vide letter No. 3943 dated 19.08.2014 (Copy enclosed as Annexure-IV) has submitted his Inquiry Report. The matter is under consideration of the Disciplinary Authority i.e. CCF Dharamshala."

Keeping in view the averments contained in the aforesaid affidavit, it appears that the respondents have taken steps to redress the grievances of the writ petitioners.

2. In the given circumstances, the writ petitions are disposed of by directing the respondents to redress the grievances of the writ petitioners, as early as possible, preferably within a year.

3. Pending applications are disposed of.

(Mansoor Ahmad Mir)
Chief Justice.

September 6, 2014
(hemlata)

(Tarlok Singh Chauhan)
Judge.



IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWPIL No. 91 of 2017

Decided on: November 16, 2017

Court on its own motion

.....Petitioner

Versus

State of Himachal Pradesh and others

....Respondents

Coram

Hon'ble Mr. Justice Sanjay Karol, Acting Chief Justice

Hon'ble Mr. Justice Sandeep Sharma, Judge

Whether approved for reporting? Yes.

For the petitioner : Ms. Rashmi Parmar, Advocate (*Amicus Curiae*)

For the respondents : Mr. Shrawan Dogra, Advocate General with Mr. Anup Rattan and Mr. Romesh Verma, Additional Advocate Generals.

Sandeep Sharma, Judge (oral):

Taking cognizance of letter addressed to the Chief Justice of this Court, wherein person namely Shri Anant Ram Negi, resident of Village Halaila, Post Office Kotkhai, District Shimla, Himachal Pradesh, highlighted a serious issue with regard to illegal felling of trees by various private persons as well as administration for construction of roads through forest land, this Court directed Registry of this Court to register the instant petition as Public Interest Litigation (CWPIL). In the letter petition, petitioner alleged that many disgruntled persons residing in Himri Panchayat, Tehsil Kotkhai, District Shimla have indulged in illegal felling of trees for the construction of roads to their respective houses. Though the letter petitioner specifically raised issue with regard to construction of road

¹ Whether the reporters of the local papers may be allowed to see the judgment? .

from Village Tharmala to Bertu via Village Guthan but also expressed his concern with regard to unauthorized construction of roads in the State of Himachal Pradesh, through forest land in violation of the Forest Conservation Act. Petitioner has alleged that since the officials of Forest Department are hands in glove with the forest mafia, no steps are being taken to stop/check illegal felling of trees, as a result of which, forest wealth is decreasing day by day. Apart from above, petitioner also highlighted the issue with regard to raising of orchards by private persons on the forest land in and around Shimla District.

2. Apart from above, this Court also received one letter in continuation to aforesaid letter petition, wherein, it is alleged that one person namely Keshav Ram Dogra, constructed road to his orchard by felling trees standing on forest land. Though letter petitioner by way of petition referred to herein above, alleged that more than four hundred roads have been constructed through forest land in District Shimla, after felling approximately 4000 deodar trees but no material has been placed on record to substantiate the aforesaid allegation.

3. This Court, taking note of the aforesaid serious allegations contained in the letter petition, directed the learned Additional Advocate General appearing on behalf of the State to have instructions in the matter. The Principal Chief Conservator of Forests, while filing reply on behalf of the State, denied aforesaid allegations levelled in the letter petition and claimed that the roads in the State of Himachal Pradesh and in District Shimla are being constructed after obtaining approval under Forest Conservation Act, 1980. It is further

disclosed in the affidavit that roads involving upto one hectare area are also being constructed after getting due sanction under Forest Rights Act, 2006, from the Divisional Forest Officer concerned. Above named deponent, specifically denied the allegation with respect to construction of 05 kms of road by forest mafia in the recent past, rather, it has been stated in the affidavit that Divisional Forest Officer Theog has accorded approval of 32 roads comprising of area measuring 16.1091 hectares under Forest Rights Act, from January, 2016 to 30.6.2017, under his jurisdiction. While refuting the contention of the letter petitioner that forest cover in the State of Himachal Pradesh is decreasing, Principal Chief Conservator of Forests has stated in his affidavit that there is an increase of 13 sq metres of forest cover in the State of Himachal Pradesh as per Forest Survey of India report, 2015. While dealing with specific instances as quoted in the letter petition with regard to Tharmala-Bertu and Guthan-Bohal roads, falling in Himri Panchayat of Kotkhai Tehsil, it has been informed by the State that necessary directions were issued to the Range Forest Officers, Kotkhai and Theog to visit the spot and submit a fact finding report. Aforesaid officer after having visited the spot, has reported that roads mentioned herein above were constructed about five years back and their length is only 2 kms and same figure in the list of cases registered for construction of roads in violation of Forest Conservation Act at Sr. No. 245.(Annexure R-I).

4. Similarly, the Range Forest Officer, Kotkhai after having inspected the spot alongwith Block Officer, Shillaru, Forest Guard Incharge of Sharmla Beat and Forest Guard Shillaru Beat, reported

that 480 metres long road has been constructed from Tharmala to Bertu in DPF Solku of Sharmala Beat. He has further reported that the road in question appears to have been constructed ten years ago. As per report submitted by Range Forest Officer, Kotkhai, person namely Keshav Ram manually widened the path by 2 feet making it motorable, qua which Range Forest Officer, Kotkhai chalked out damage report No. 10/17-18 dated 23.8.2017, against Shri Keshav Ram for the alleged offence committed by him and same shall be disposed of as per departmental procedure. As per reply submitted by the respondent-State, road in question has been fenced on both sides by the State and Deodar trees have been planted, as is evident from the photographs placed on record as Annexure R-IV.

5. Most importantly, perusal of annexure R-III suggests that Range Forest Officer, Kotkhai also contacted the letter petitioner namely Shri Anant Ram Negi on his cell phone, who in turn informed the concerned officer that this is a false complaint made in his name and he has nothing to do with these roads. Similarly, inquiry with regard to construction of Tharmala-Bertu road has been entrusted to Divisional Forest Officer, Theog.

6. Though, this court after having perused aforesaid reply filed by the respondent-State sees no reason to issue further directions in the matter, especially when complaint allegedly having been filed by Shri Anant Ram Negi has not been actually filed by the letter petitioner, as is stated by him to Range Forest Officer, Kotkhai, but this Court after perusing the documents placed on record by the Principal Chief Conservator of Forests, annexure R-I, sees substantial

force in the averments contained in the letter petition that roads are being constructed in the State of Himachal Pradesh in violation of Forest Conservation Act. As per own calculation of the Forest Department, approximately 2183 roads have been constructed in the State of Himachal Pradesh in violation of the Forest Conservation Act, which is a large number and can not be overlooked. It also emerges from the perusal of documents placed on record by the Forest Department that the matter with regard to construction of roads in the State of Himachal Pradesh in violation of Forest Conservation Act had come to the notice of this Court, in CWP No. 5600 of 2012 titled as **Manoj Kumar** versus **Union of India & others** and connected matters and COPC No. 56 of 2009 titled as **Kuldeep Singh Chauhan** versus **Balbir Thakur and others**, wherein, directions were issued to the State of Himachal Pradesh as well as Ministry of Environment and Forests, Government of India, for inspection of such roads by Committees and thereafter to report the matter to the Northern Regional Officer, Ministry of Environment and Forests, Chandigarh, for consideration of proposal for approval.

7. Though this Court, after having perused specific reply qua the roads allegedly constructed by private persons or authorities in violation of Forest Conservation Act, sees no reason to keep this petition alive, but, definitely, this Court can not lose sight of the fact that thousands of roads have been constructed in the State of Himachal Pradesh, in violation of Forest Conservation Act as such, this Court deems it proper to call for a detailed report from the respondent-State with regard to steps taken by the Forest Department for obtaining approval from the Ministry of Environment

and Forests, Government of India, pursuant to directions issued by this Court in CWP No. 5600 of 2012 (supra) and COPC No. 56 of 2009 (supra).

8. Before issuing necessary directions in light of the discussion made herein above, it may be noticed that the issue with regard to encroachment on forest land by private persons in District Shimla for raising orchards is already pending adjudication before this Court in CWPIIL No. 9 of 2015 and CWPIIL No. 17 of 2014, as such, no directions in that regard are required to be issued in the present petition.

9. Consequently, in view of discussion made herein above, present petition is disposed of with a direction to the Chief Secretary to the Government of Himachal Pradesh to file his personal affidavit, detailing therein number and names of roads constructed in the State of Himachal Pradesh, in violation of Forest Conservation Act. Chief Secretary may also indicate in his affidavit that what steps have been taken by the State for getting necessary permission from the Ministry of Environment and Forests, Government of India, for regularization of roads constructed in violation of Forest Conservation Act. Needful be done within a period of two weeks from today.

10. Aforesaid affidavit filed by the Chief Secretary to the Government of Himachal Pradesh in compliance to the instant judgment shall be placed before this Court.

(Sanjay Karol)
Acting Chief Justice

(Sandeep Sharma)
Judge

November 16, 2017 (vikrant)

IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA.

COPC Nos. 302 & 303 of 2012, 560, 561 and
563 of 2011.

Decided on: 19th November, 2012.

I. COPC No. 302 of 2012.

Narain Dass Naik s/o Sadhu Ram "A" Class Govt. contractor & Builders, Head Office at NH-21, Bhour, PO Kanaid Tehsil Sundernagar, Distt. Mandi, HP through his Special Power of Attorney Sh. Keshav Naik.

Petitioner.

Versus

Sh. Suresh Kapoor, Executive Engineer, sundernagar division, Distt. Mandi.

Respondent.

II. COPC No. 303 of 2012.

Narain Dass Naik s/o Sadhu Ram "A" Class Govt. contractor & Builders, Head Office at NH-21, Bhour, PO Kanaid Tehsil Sundernagar, Distt. Mandi, HP through his Special Power of Attorney Sh. Keshav Naik.

Petitioner.

Versus

Sh. Suresh Kapoor, Executive Engineer, sundernagar division, Distt. Mandi.

Respondent.

III. COPC No. 560 of 2011.

Mrs. Kamlesh Puri w/o Shri Mahesh C. Puri son of late Shri Laxmi Chand Puri Carrying on business in the name and style of M/s SRM Constructions, resident of Sukhdham, Dhingra Estate, Boilequganj, Shimla-5.

Petitioner.

Versus

1. Dr. P.C. Kapoor son of not known Principal Secretary (PW) to the Govt. of HP, HP Secretariat, shimla-2.
2. Shri NPS Chauhan son of Shri Sita Ram, Executive Engineer, Padhar Division, HPPWD Padhar, Distt. Mandi.

Respondents.

IV. COPC No. 561 of 2011.

Mahesh C. Puri son of late Shri Laxmi Chand Puri Carrying on business in the name and style of M/s SRM Constructions, resident of Sukhdham, Dhingra Estate, Boilequganj, Shimla-5.

Petitioner.

Versus

1. Dr. P.C. Kapoor son of not known Principal Secretary (PW) to the Govt. of HP, HP Secretariat, shimla-2.
2. Shri NPS Chauhan son of Shri Sita Ram, Executive Engineer, Padhar Division, HPPWD Padhar, Distt. Mandi.

Respondents.

V. COPC No. 563 of 2011.

Mahesh C. Puri son of late Shri Laxmi Chand Puri Carrying on business in the name and style of M/s SRM Constructions, resident of Sukhdham, Dhingra Estate, Boilequganj, Shimla-5.

Petitioner.

Versus

1. Dr. P.C. Kapoor son of not known Principal Secretary (PW) to the Govt. of HP, HP Secretariat, shimla-2.
2. Shri NPS Chauhan son of Shri Sita Ram, Executive Engineer, Padhar Division, HPPWD Padhar, Distt. Mandi.

Respondents.

Coram

***The Hon'ble Mr. Justice Kurian Joseph, Chief Justice
The Hon'ble Mr. Justice Rajiv Sharma, Judge.***

**For the Petitioner : Mr. J.S. Bhogal, Senior Advocate,
with Mr. Suneet Goel and Mr. T.S.
Bhogal, Advocates.**

**For the Respondents : Mr. R.K. Bawa, Advocate General,
with Mr. Ankush Dass Sood, Addl.
AG and Mr. J.K. Verma, DAG.**

Justice Kurian Joseph, C.J. (Oral)

The complaint in these cases is that the order dated 28.8.2009 in COPC No. 56 of 2009 has been violated in

having directed the petitioners to make construction of the roads passing through the forest area. Having gone through the affidavit filed by the respondents, it is fairly clear that there is no work awarded to the petitioners for the construction of the roads. The work awarded is only of up-gradation of the roads, which includes removal of formation deficiency, R/Wall, B/Wall, renewal and M/T, essential C.D. works, V-Shape drain, Parapets, Km. Stone and logo board etc. The roads through which the vehicles have been permitted to ply already existed decades back. It is only the maintenance work which was entrusted to the petitioners. In that view of the matter, it cannot be said that there is any contempt. There is no violation at all of the directions issued by this Court in the order dated 28.8.2009. The works were awarded to the petitioners long before the order dated 28.8.2009. The attempt in these petitions apparently is only to get over the action taken by the respondents against the petitioners. Therefore, Contempt Petitions are dismissed. Rule is discharged.

(Justice Kurian Joseph),
Chief Justice

19th November, 2012.
(tr/kck)

(Justice Rajiv Sharma),
Judge.

High Court of H.P. ◊