

Court on its own motion Vs. State of H.P. & others

CWPIL No. 2 of 2022

21.6.2022 Present: Mr. B.C. Negi, Senior Advocate as Amicus Curiae with Mr. Nitin Thakur, Advocate, for the petitioner.

Petitioner No. 2, Mr. Rishab Tripathi through video conferencing.

Mr. Rajinder Dogra, Senior Additional Advocate General with Mr. Shiv Pal Manhans, Mr. Vinod Thakur, Additional Advocate General, Mr. Y.S. Thakur, Deputy Advocate General, for the respondents-State.

Mr. Ajay Sharma, Senior Advocate, with Mr. Atharv Sharma, Advocate, for respondent No. 4.

Respondent-State is directed to supply names of all the service providers conducting paragliding throughout the length and breadth of the State before the next date of hearing. Respondents-State shall also apprise the Court regarding website with respect to the creation or addition of the adventure tourism in the existing website with a facility to lodge the complaints and furnish the reviews.

2. We find that as regards offences and penalties as provided in Chapter-VI of the Himachal Pradesh Tourism Development and Registration Act, 2002, there is no provision for institution of

proceedings or filing of claims like those provided in the Negotiable Instrument Act and PC-PNDT Act etc. That apart, even the penalty as provided appears to be too meager.

3. Above all, we find that even the draft SOPs lean in favour of the service providers rather than the consumers. Some of the provisions in the SOPs are absolutely vague, such as clause-17 of the guidelines/SOPs of Water Sports Activities, which provides that a liability waiver should be signed by the client prior to the river trip. This should clearly mention the inherent risks involved in the sport. Likewise, Clause-18 of the aforesaid guidelines/SOPs provides that the operator shall ensure the participants for third party insurance as per carrying capacity of the boat and water sport machine to the extent of Rs. 5,00,000/- per participant. This clause is also absolutely vague. Even the amount specified as Rs. 5,00,000/- appears to be too meager.

In view of this, adequate amendments are required to be made in the SOPs so that the interests of the consumers as also the employees of service providers are adequately safeguarded and protected.

List on 12.7.2022.

(Tarlok Singh Chauhan)
Judge

(Chander Bhusan Barowalia)
Judge

June 21, 2022
(Kalpana)