

Court on its own motion vs. State of H.P. and others

CWPIL No.2 of 2022

05.04.2022 Present: Mr. B.C. Negi, Senior Advocate as *Amicus Curiae* with Mr. Nitin Thakur, Advocate.

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

Mr. Ashok Sharma, Advocate General with Mr. Shiv Pal Manhans, Additional Advocate General, Mr. Yudhbir Singh Thakur, Mr. Bhupinder Thakur, Deputy Advocates General and Mr. Rajat Chauhan, Law Officer, for the respondents/ State/applicant in CMP No.3392/2022.

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

CMP No.3392/2022

By the medium of this application, 2nd respondent has sought permission to resume the entire adventure/ sports activities with respect to the operation/ licence, who have fulfilled all the requisite codal formalities/safety measures. However, the body of this application shows that this application is confined to Kullu District and, therefore, this order shall be applicable to the District of Kullu only.

2. On 30.3.2022, this Court passed the following order:-

“CMP No.3392 of 2022

The respondent-State has filed this application seeking permission to permit the adventure/ sports activities on the ground that most of the agencies/persons involved in these adventure/sports have now complied with the rules as applicable to the concerned sports. Let copy of this application alongwith the report be

sent to the Secretary District Legal Services Authority, Kullu for his comments which will be furnished latest by 4th April, 2022 at 2:00 PM.”

3. In compliance to the said order, Secretary, District Legal Services Authority, Kullu has filed his comments. Paragraphs 12 to 15 of the comments are relevant and are extracted below:-

“Para 12: The Para Gliding activity in District Kullu was stopped primarily because of following two main reasons:-

- i) The Para Gliding equipment of the operators was not passed by the Technical Committee.*
- ii) The registration of operators was faulty because none of the operators had produced the requisite insurance at the time of registration.*

The copy of the Inspection Report (Annexure-A-II) shows that the Technical Committee has passed the equipment for a specific period.

To verify the shortcoming about insurance, the necessary record was called from the office of DTDO, Kullu. As per record, the registered operators have now obtained the necessary insurance. This also includes insurance for

the use of helicopter for casualty evacuation.

The main objections have been addressed, therefore, there is no objection to the resumption of this activity.

Para 13 : The River Rafting activity in District Kullu was stopped primarily for the following reasons:-

- i) The River Rafting equipment of the operators was not passed by the Technical Committee.*
- ii) The operators were registered for three years instead of one year in violation of Rule 4 (1) of the Himachal Pradesh River Rafting Rules, 2005 (please refer to remarks Column of Annexure-B of the Report dated 17.02.2022).*
- iii) The rafts were not accompanied with the rescue raft or kayak.*

The copy of Inspection Report (Annexure A-III) shows that the Technical Committee has inspected and passed the equipment.

To verify the facts about registration, necessary record was called from the office of DTDO, Kullu. As per record, necessary correction has been made in the certificate of Registration and the

operators are now registered for one year.

As regards rescue raft, perusal of the proceedings of the meeting/inspection from 19th to 24th February, 2022 shows that it has been decided that single tourist raft will not be sent by any operator and tourist raft shall always be accompanied with a rescue raft or kayak or alternatively one rescue raft shall be sent with three tourist rafts in a group.

The main objections have been addressed, therefore, there is no objection to the resumption of this activity.

Para No.14 & 15: The operation of ATVs and Snow Scooters was stopped because it was found that the date of fitness of all the vehicles had expired on 30.04.2020. Annexures-A-IV and A-V show that the fitness of 34 ATVs and 29 Snow Scooters has been validated up-to 05.02.2023. Therefore, there is no objection to the resumption of operations by these 34 ATVs and 29 Snow Scooters.”

4. Taking into consideration, the comments of the Secretary, District Legal Services Authority, Kullu, we deem it proper to permit the operation of Para Gliding and River

Rafting activities only to those operators/persons whose names find mention in the application moved by the 2nd respondent. In case, any other operator/person wants to carry out such activities, he can carry out the same only after obtaining express permission and leave of this Court.

5. At present, 34 ATVs and 29 Snow Scooters have been validated. Therefore, we permit these 34 ATVs and 29 Snow Scooters, to carry out their operations, but in each of the cases, as aforesaid the same shall be carried out only after complying with the Rules/Guidelines and following adequate safety measures, as are specified.

6. We place on record our appreciations for the valuable assistance rendered by the various Secretary(s), District Legal Services Authority.

7. We find that there are no Standard Operating Procedures (SOPs), laid down by the Government qua any of the activities, which form the subject matter of the instant petition. Therefore, we direct the respondents/State to come up with the Standard Operating Procedures (SOPs) and place the same before the Court on or before the next date of hearing.

8. We also find that there is no provision for taking or initiating any action provided under the Rules against the persons, who are illegally carrying out the activities, which is, subject matter of this petition. Therefore, we direct the State

Government to provide such provisions in the Rules or in the Standard Operating Procedures (SOPs). We have no doubt in our mind that the State Government, while drafting and formulating the Standard Operating Procedures (SOPs), shall also take into consideration, the suggestions given by petitioner No.2.

List on 19.4.2022.

(Tarlok Singh Chauhan)
Judge

April 05, 2022 (KS)

(Sandeep Sharma)
Judge