

**Court on its own motion vs. State of H.P & ors.**

**CWPIL No.14 of 2017.**

**14.11.2024.** Present: Ms. Shreya Chauhan, Advocate, as Amicus Curiae.

Mr. Anup Rattan, Advocate General with Mr. Rakesh Dhaulta, Mr. Sushant Keprate, Mr. Pranay Pratap Singh, Mr. Gobind Korla, Additional Advocates General, Ms. Priyanka Chauhan and Mr. Arsh Rattan, Deputy Advocates General, for respondents No. 1 to 4- State.

None for respondents No.6, 7 and 10.

Mr. Balram Sharma, Deputy Solicitor General of India with Mr. Rajeev Sharma, Advocate, for respondent No.8.

Dr. Anup Kumar Dass, Scientist B, Sub-Office, Shimla, R.O. Candigarh, Ministry of Environment Forest and Climate Change, Govt. of India and Mr. Jai Paul Sharma, E.E, H.P.P.W.D, Sunder Nagar in person.

Mr. Balram Sharma, learned Deputy Solicitor General of India has placed on record communication dated 22<sup>nd</sup> October, 2024, which goes to indicate that the Public Works Department/State is required to comply with the conditions No. 1, 3 and 4, which read as under:-

- 1. As per Site inspection report uploaded by the DFO, Karsog and Suket in part II, violation of Van (Sanrakshan Evam Samvardhan Adhiniyam, 1980 has been reported but the same is neither substantiated in the report, nor shown at SN11: Details of violation(s) of part II. Therefore, the State Government is required to clarify regarding this ambiguity and clarify the issue of violation and if there is violation of Van (Sanrakshan Evam Samvardhan Adhiniyam, 1980, this is required to*

*be indicated at SN-11 of part-II alongwith other action taken by the State Government.*

- 3. As per the PARIVESH portal, 39 Muck Dumping sites within the forest (3.20 hacs) and near the river Sutlej are proposed. However, there is no detailed muck disposal plan (only a sketchy plan- no drawings, no site details, and no information on how 5,62, 695.70 cu mts of unusable muck will be stored). Therefore, fresh muck disposal plans (MMP) with all these details is required to be submitted, duly authenticated by DFO concerned.*
- 4. As per letter dated 6.09.2023 from PCCF, Wildlife/CWLW, uploaded at SN-8 of the additional information details of part II, the aerial distance of proposed diversion site from the ECO Sensitive Zone of Majathal Wildlife Sanctuary is 0.26 Km and the aerial distance from the proposed ECO Sensitive Zone of Bandli Wildlife Sanctuary is 0.78 K.M. It is not clear, if the ESZ is notified or not in both the cases. The CWLW is required to specify clearly, if these two ECO Sensitive Zone are notified by the Ministry as on date or not. In case, the ESZ is not notified, the proposed diversion site will fall within default 10 km ESZ and the CWLW is required to comment regarding applicability of the Wildlife clearance from the competent authority.*

2. Learned Deputy Solicitor General of India further states that he has instructions to state that out of the conditions as set out in communication dated 22.10.2024, condition No.2 would not be insisted upon.

3. In the given facts and circumstances, the State authorities are directed to comply with the conditions No.1,

3 and 4 within 15 days from today and in the event of the State complying with these conditions, then the forest clearance shall be granted within next 15 days in case there is no impediment.

4. Further, in case any objection is found, then the case shall be forwarded to the Ministry of Environment Forest and Climate Change, New Delhi, which in turn, shall thereafter take a decision within 15 days of receipt of such objection.

5. This order has been necessitated bearing in mind that the litigation qua this road is pending consideration before this court in this petition from 2017 and earlier to that directions have already been passed in another writ petition i.e. CWPIIL No. 28 of 2012.

6. Moreover, an amount of ₹219.43 crores has already been sanctioned for this road way back in the year 2018.

7. The Secretary, P.W.D and the concerned Engineer-in-Chief shall take personal interest in the matter so as to ensure that necessary documents are prepared within stipulated time granted by this Court.

8. We hope and trust that no fresh objection, than the one noted above, shall be raised by the concerned Ministry.

9. For compliance to come up on 16.12.2024, when the status report be filed by HPPWD through Chief Secretary and also by the Ministry of Environment Forest and Climate Change through its Secretary.

10. The personal presence of the officers present today is dispensed with till further orders.

**(Tarlok Singh Chauhan)**  
**Acting Chief Justice**

**(Satyen Vaidya)**  
**Judge**

**November 14, 2024.**  
*(yogesh/ sanjeev)*