

Court on its own motion vs. State of HP and connected matters

**CWPIL No. 108 of 2017 a/w CWPIL Nos.
17 of 2016, 12/2021, 47 of 2021 and 25 of 2022**

25.07.2023 Present: Mr. Sanjeev K. Suri, Advocate as Amicus Curiae in CWPIL No. 108 of 2017, Mr. Ganesh Barowalia, Advocate for the petitioner in CWPIL No. 17 of 2016, Mr. Vinod Chauhan, Advocate for the petitioner in CWPIL No. 12 of 2021 and Mr. Ashok Kumar Verma, Advocate for the petitioners in CWPIL No. 25 of 2022.

Mr. Anup Rattan, Advocate General with M/s Navlesh Verma, Rakesh Dhaulta and Pranay Pratap Singh, Additional Advocate Generals and M/s Gautam Sood, Arsh Rattan and Sidharth Jalta, Deputy Advocate Generals, for respondents/State.

Mr. Balram Sharma, DSGI, for respondent-Union of India.

Mr. K.D. Sood, Senior Advocate with Mr. Rahul Gathania, Advocate, Mr. Manish Sharma, Advocate, Mr. Mukul Sharma, Advocate vice Mr. V.B Verma, Advocate, Mr. Nitin Thakur, Advocate, Mr. Tara Singh Chauhan, Advocate and Mr. Aman Parth Sharma, Advocate, for the respective respondents in the respective petitions.

Heard learned Counsel for the parties.

From the status report filed by the Deputy Commissioner, Una, it is apparent that certain things need to be done regarding demarcation of the mining leases, plugging illegal and unauthorized paths, which may be created in future as well, regulating private bore wells which do not have permissions, conducting of fresh sediment load study in the *khud*, regulating river bed mining so that there is no excess carving and lowering of the river bed etc.

It is also doubtful if respondent No. 12 M/s Thakur Enterprises has a valid lease in his Unit-1, in Khasra Nos. 967 and 969, measuring 09-35-30 Hects. of private land, situated in Mauza Chowki Maniyar Mohal Baruhi of Tehsil Bangana, District Una, which appears to have not been noticed by the Deputy Commissioner who has filed the mining lease of another Unit located at a different place.

The Amicus Curiae has also pointed out that a crusher is still being operated by the said respondent and in the previous report filed by the Deputy Commissioner of 4th March, 2023, he had noted that the mining lease of Unit-I of respondent no. 12 expired on 10.12.2020, but even thereafter the Stone Crusher is operational in the Swan river in village Kuthera Jaswalan located 09 kms. from stone crusher site and there is raw material stacked at different places and poclain was also found on the spot.

No penal action including prosecution appears to have been taken against M/s Thakur Enterprises (respondent no. 12) on this basis by the Department of Industries of the Government of Himachal Pradesh.

Explanation is sought from the said department on the action proposed to be taken against the said party in the next report to be filed by the said department.

Counsel for Himachal Pradesh Pollution Control Board shall also file a status report alongwith the Department of Industries (3rd respondent) on the status of sand mining in the river bed of the *Khud* and the extent of damage, if any, to such river bed since the report of the Deputy Commissioner dated 19.07.2023 seems to suggest considerable damage to the river bed.

The report of Member Secretary of the Himachal Pradesh Ground Water Authority filed in June, 2023, at para-6 shows that there is unlimited stone mining and stone crushing, which is depleting the ground water and such activities are going on alongwith *Garni Khud* and wells have either dried up or water level had gone down.

The respective respondents shall on the next date of hearing submit a report as to what steps are being taken on all these issues

List on 24.08.2023.

Counsel for respondent no. 12 shall file a fresh affidavit by the next date whether his client has two mining leases or one and how many Stone Crushing Units he has been operating.

(M.S. Ramachandra Rao)
Chief Justice

(Ajay Mohan Goel)
Judge

July 25, 2023
(narender)