

Court of its own Motion vs. NHAI & ors.

CWPIL No. 249/2017

11.1.2023 Present: Mr. O.C. Sharma, Advocate, as Amicus Curiae.

Mr. K. D. Shreedhar, Sr. Advocate with Ms. Shreya Chauhan, Advocate, for respondent No.1-NHAI.
Mr. Anup Rattan, A.G. with Mr. Y. P. S. Dhaulta, Addl.A.G., Mr. J. S. Guleria, Dy.A.G. & Mr. Rajat Chauhan, Law Officer, for respondent-State.

Mr. O. C. Sharma, Advocate, who is present in the Court and has readily accepted the offer, is appointed as amicus curiae. Registry to supply a complete set of paper book to Mr. O.C. Sharma, Advocate and also reflect his name in the cause list, henceforth.

2 On 28.12.2022, this Court passed the following order:-

This Court on the last date of hearing had expressed its concern with regard to the slow and tardy progress of the National Highway in its stretches between Chambaghat to Kandaghat. Mr. R.A. Khural, Project Director, NHAI is present in person today and has explained that there is no impediment whatsoever in the execution work and the same is being carried out at the desired pace and the road will be fully operational by the end of December, 2023, in all probability. Another concern that was expressed by this Court was regarding the wayside amenities that could be made available on the dumping site, which despite repeated orders of this Court have not been provided by the respondents-State. The Advocate General is directed to convene a meetings of all the Departments, more particularly, the public works, Forest, Tourism & NHAI and Deputy Commissioners, Shimla and Solan, so that the workable and meaningful solution can be found by the next date of hearing. Learned counsel for respondent No.2 states that NHAI has already written to the Forest Department

regarding grant of Forest clearance for the railway over-bridge at Kandaghat, but the permission thereof is still awaited. The Forest Department is directed to expedite the clearance and ensure that needful is done by the next date of hearing. As prayed for, list on 11.01.2023.

3 In compliance to the aforesaid order, a meeting was convened in the office of learned Advocate General on 2.1.2023, wherein representatives of all the stakeholder-departments i.e. Public Works Department, Forest Department, Tourism Department, NHAI, Deputy Commissioners, Shimla and Solan, were present. The issues in question were deliberated in detail and after sharing views, it was decided to again call for a meeting to resolve the issues, which was accordingly convened on 3.1.2023.

4 As regards decision taken in the meeting on 3.1.2023, the same has been spelt out in the compliance affidavit, filed today in the open court, relevant text whereof reads as under:-

“4. That 03.01.2023 in the meeting it was decided that wayside amenities will be developed by NHAI on sites which were diverted to NHAI for dumping the muck. It was decided that NHAI will move a proposal for change of land use in some of components in the diverted forest land for dumping indicating therein the use of dumping sites for providing wayside amenities to the travelers and rest of the area in those dumping sites will be developed as green zone. Forest Department will provide the necessary assistance for forwarding the proposal for obtaining the approval from IRO Shimla, office of MoEF&CC Govt. of India.

5. The proposal/ representation for change of land use was received by DFO Solan and after scrutiny of the

proposal by DFO Solan, some shortcomings have been noticed and has been returned vide Annexure R-I. NHAI has been requested to resubmit the proposal as per shortcomings pointed out. After receiving the proposal/representation from user agency, proposal will be processed expeditiously and will be forwarded to IRO Shimla, MoEF&CC, Govt. of India for approval.

6. That as far as issue regarding forest clearance of railway over bridge at Kandaghat is concerned, the FCA proposal for diversion of 0.9036 ha. of forest land in favour of NHAI, for additional forest land in four laning of Solan Kaithlighat of NH 22 is under process with DFO Solan. The reply of the observation regarding legal status of forest land is required to be obtained from Revenue Authorities. Accordingly, DFO Solan vide his letter No. 4324/CC dated 06-01-2023 asked the SDO (C) Kandaghat to send the legal status of the land in question. After receiving the status of land, the proposal will be processed expeditiously.”

5 We place on record appreciation for painstaking efforts made by the learned Advocate General for bringing about all the stake holders under one roof.

6 We deem it proper to adjourn this matter in view of the ensuing winter vacations to 15.3.2023, when fresh status report shall be filed.

(Tarlok Singh Chauhan)
Judge

(Virender Singh)
Judge

11.1.2023
(pankaj)

