

Court on its own motion versus National Highway Authority of India & Ors. a/w connected matter

CWPIL No.249 of 2017 a/w CWPIL No.45 of 2025

[Item D-1]

18.09.2025.

Present: **CWPIL No.249 of 2017** Mr. Ajay Sipahiya, Advocate, as Amicus Curiae.

Mr. K.D. Shreedhar, Senior Advocate with Ms. Shreya Chauhan, Advocate, for respondents No.1 and 7.

Ms. Vandana Misra, Senior Panel Counsel, for respondents No.2 and 12.

Mr. Pranay Pratap Singh, Additional Advocate General, for the respondents-State.

None for respondent No.6.

Col. Ajay Singh Bargoti, Regional Officer NHAI and Mr. Anand Kumar, PD Shimla, PIU Shimla, present in person.

CWPIL No.45 of 2025

Mr. Ganesh Barowalia, Advocate, as Amicus Curiae.

Mr. Pranay Pratap Singh, Additional Advocate General, for respondents 1, 4, 6 & 7-State.

Ms. Vandana Misra, Senior Panel Counsel, for respondent No.2.

Mr. K.D. Shreedhar, Senior Advocate with Ms. Shreya Chauhan, Advocate, for the respondent-NHAI.

An affidavit has been filed by Shri Ajay Singh Bargoti, presently posed as Regional Officer, National Highways Authority of India, who is present

in the Court today, in view of order passed by us on 28.08.2025, which reads as under:-

- “ In pursuance to the last order dated 26.06.2025, affidavit has been filed by the Project Director, National Highway Authority of India, Project Implementation Unit, Shimla. The said affidavit does not apparently satisfy the requirements which were to be done as per the last order.*
- 2. In the said affidavit, even the correct facts have not been depicted, whereas specific averment has been made that stone crusher occupies a stretch of only 50 meters on the Chandigarh-Shimla Highway. We are of the considered opinion that the frontage of the stone crusher on the Highway is not less than 200 meters, reducing the width.*
 - 3. The affidavit has been filed by the Officer-Anand Kumar, Project Director who had appeared earlier in person before this Court on 22.03.2025 & 01.05.2025. It was only at that point of time that we had exempted his personal appearance on account of the fact that some work was being done at that point of time in terms of the earlier orders passed by this Court.*
 - 4. Keeping in view the fact that monsoon was oncoming and there was certain urgency to be shown regarding the maintenance of the premium Highway to Shimla, apparently, the Authorities have failed to maintain the condition of the road, and not kept these factors in mind.*
 - 5. It is a matter of fact that at “Chakki Moud”, the road has been closed for more than three occasions in the month of July/August, 2025 and that two way has been reduced to one way leading to draw a long traffic jams as much as five kilometers on either side, causing inconvenience not only to the general public but also affecting the economy of the State, especially keeping in view the fact that Apple Season is on and the trucks have to go down to the plains. It is also a matter of fact that all the farmers as such have to send their goods to the plains on daily basis and any stoppage of the traffic as such makes the goods liable to be destroyed on account of their perishable nature.*
 - 6. Apparently, the Authorities of the NHAI are turning a blind eye even to maintain the premium Highway. It is not disputed that the said Highway is under construction and renovation is being carried out for a long time and the petition is pending since 2017.*

7. Resultantly, we are constrained to call firstly upon the Regional Officer of the NHAI of the State of Himachal Pradesh to come present on the next date of hearing and file a comprehensive plan as to how firstly at least, this Highway is to be maintained.
8. Another disturbing fact is regarding the construction of the Major Bridge at kilometers 109+600 near Apollo Tyres, Salograh Pier P-1, the height of which is stated to be 77.280 meters. Apparently, the said pier has been found deficient in meeting the required criteria of stability and load-bearing capacity. Rectification was to be done after approval of the plan. Thus, the said Officer shall also give the detail of the amount spent on raising these piers of the bridge and whether the same is likely to be utilized or abandoned and whether any action is proposed to be taken against the Contractor. The details of the Contractors executing the work from Parwanoo to Solan and from Solan to Kaithlighat be also given to find out whether there is any nexus to award work to particular Contractors who apparently are deficient in providing adequate service.
9. The NHAI is also put to notice that in case the Highway is not maintained, similar orders are likely to be passed regarding the closure of the toll tax at Sanwara, as has been done by the Apex Court while upholding the order of the Kerala High Court in Special Leave Petition (C) No. 22579 of 2025, **National Highways Authority of India & another Vs. O.J. Janeesh & others**, decided on 18.08.2025.
10. The affidavit shall also give details of the toll tax collected at Sanwara by the NHAI from the date of institution.
List on 18.09.2025.”

2. The affidavit filed by the officier has tried to justify, on the basis of rainfall data in Districts Solan and Shimla, that the departure from normal rainfall in the month of August was over 100%. The excessive rainfall has directly impacted the highway maintenance works, notwithstanding the continued

and sustained efforts of NHAI. The closure of Chakki Moud is also admitted as per the details given below:

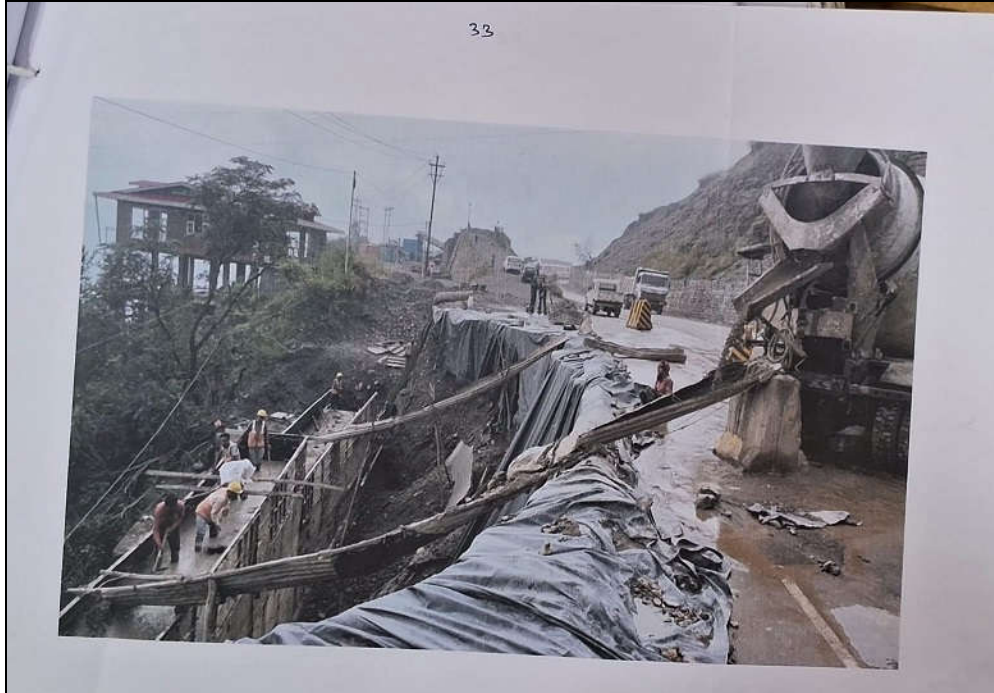
S. No.	Location	Date	Status
1.	Chakki Moud	06.08.2025	Closed for around 3 hours & 15 minutes (6:00 AM to 9:15 AM) Restored single lane traffic at around 9:15 AM and at around 8:00 PM the traffic was restored in two lane.
2.	Chakki Moud	29.06.2025	Closed for around 30 minutes (7:45 AM to 8:15 AM) Restored single lane traffic at around 8:15 AM and at around 8:30 PM the traffic was restored in two lane.

3. It has also been mentioned that the appointed date for completing the Parwanoo – Solan Section (39.139 km) was 21.09.2015, and that the construction of the four-lane was substantially completed on 21.04.2021. The justification for the delay has also been explained.

4. It has further been mentioned that 29 moderately damaged sites have been completed, and that two major damages occurred at Datyar and Chakki Moud. The protection work at these two sites was entrusted to a separate agency in September 2024, and restoration works are under progress and is likely to be completed by 16.03.2025, due to the

damages having occurred in the year 2023 due to natural calamity.

5. The unprecedented heavy rainfall has triggered landslides at 22 different locations, along the 39.139 km stretch. Thus, it is apparent that on practically every one and half kilometers, there is a landslide. It has been stated that muck has already been cleared from 16 locations and the balance will be removed by 30.09.2025. Photographs have been necessarily appended showing the work carried out. One of such photographs, Annexure R-1/62, shows the manner in which the highway has collapsed towards the valley side; and as informed to us at present that it is the portion where a Stone-Crusher has been installed right next to the highway, which is clearly visible in the background. Similarly, photographs of the machinery deployed at Chakki Moud have been appended. The photograph's Annexure R-1/62, are as under:



6. Regarding the slope protection work at 42 identified locations, it has been stated that work at 28 locations have been completed, and the scheduled completion date for the remaining slope protection

works is 16.03.2026. The four-laning project is stated to have been given to M/s Airef Engineers Pvt. Ltd. with the appointed date of the project as 09.11.2018. Reasons have been given for the delay, fastening liability on the State regarding the announcement of awards and delay in obtaining forest clearance.

7. It has also been admitted that owing to excessive rainfall, potholes have developed along certain stretches which is attributed to the exceptional heavy rainfall during the season. Prior to the monsoon, only two locations between Chakki Moud and Datyar of 400 meters were under repair. As an immediate steps, an NIT amounting to Rs.3.00 crore for short-term maintenance works for drain cleaning, deployment of additional manpower, muck removal and clearance of the Parwanoo-Solan Section has been invited and Rs.1.70 crore has been awarded to one contractor, M/s Dinesh Kumar Sharma. For patch work and pothole repair, an estimate of Rs.48.00 lakh has been approved on an emergent basis, but no bid has yet been received.

8. A long-term plan with an estimated cost of Rs.12.66 crore has been approved for the work

through the EPC Contractor, M/s GR Infraprojects Ltd. to increase the longevity of the pavement of the Parwanoo – Solan Section and for routine maintenance for the said Section and amount of Rs.15.2 crore have been prepared and the NIT has been uploaded with the opening date fixed as 23.09.2025.

9. Regarding Solan – Kaithlighat Section, which is stated to be 21.501 km in length, four-laning work has been completed over 18.988 km, under the said contractor and traffic diversions have been provided at seven locations covering a total length of approximately 1.3 km, except at the stone-crusher area on the Kandaghat by-pass, where the stone-crusher is to be removed in November 2026. Out of 41 identified locations for slope protection, work at 9 locations has been completed, thus still leaving work being carried out on 32 sections on a 21 Kms. Section.

10. Regarding the major bridge in question, a rectification plan has been submitted and the EPC contractor has been directed to take up the work. An amount of Rs.95.00/- lakh was paid to EPC

contractor, and the same was recovered and a further penalty of Rs.90.00/- lakh has been imposed on the said contractor.

11. Regarding the Toll-Plaza which has been installed at Km 80.720 (Sanwara), the collection since 2021 is Rs.169.27/- crore and it has been averred that NHAI has reduced the toll rates in accordance with its Policy. The investment made by Government of India in developing the said section from Parwanoo to Solan was stated to be Rs.1,639/- crore.

12. A perusal of the Notifications which have now been issued on 04.09.2025 and 17.09.2025 after we passed the order on 28.08.2025 would go on to show that there has been only a token reduction in user fee — Rs.5 for Car/Jeep/Van/Light Motor Vehicles, Rs.5 for Light Commercial Vehicles, and subsequently another Rs.5 for the said category of vehicles, buses, and trucks, etc. The revised user fee for Sanwara Fee Plaza @ Km 80.722 is as under:

Revised User Fee for Sanwara Fee Plaza @ Km 80.722			
Category of vehicles	Fee for Single Journey (Original)	Revised User Fee for Single Journey w.e.f. 04.09.2025	Revised User Fee for Single Journey w.e.f. 17.09.2025
Car/Jeep/Light	75	70	70

Motor Vehicle			
Light Commercial Vehicle/Light Good Vehicle or Mini Bus	120	115	110
Bus/Truck (Two Axles)	250	245	235
Three Axle Commercial vehicles	270	265	255
HCM or EME or MAV (4 to 6 Axles)	390	385	370
Oversized vehicles (Seven or More Axles)	475	465	450

13. Thus, the above contents of the affidavit beyond any anvil of doubt shows that the condition of the highway is dismal. We have already noticed that in spite of pushing and prodding, the matter has been pending since 2017. The NHAI has failed to rise up to its expectations of maintaining this premium highway connecting Shimla to the plains.

14. Apparently, it is admitted that what had collapsed in 2023 has still not been put back in place in spite of two years having elapsed at two major places at Datyar and Chakki Moud.

15. On 01.05.2025, we had noticed that stretch between Parwanoo to Kaithlighat is only 60 kilometers and slope protection work was carried out at 83 points. We had also expressed our

apprehensions that the tourist season was to commence before the onset of the monsoon and we had again asked the officers concerned to take necessary steps both on the issues of slope protection and Hydroseeding. The relevant paragraphs are reproduced as under:-

“In view of the said facts, though it is a matter of fact that distance as such, between Parwanoo to Kaithlighat is only 60 kilometers and therefore, one is to look at the slope protection which is to be carried out on both sides of Solan is around to at 83 points. Thus it would practically mean that the work would still be carrying on at every 0.75 kilometers which only goes to show that why this Court is being constrained to call for the report and ensure that the work is being carried out at the earliest and thus depicts only a grim picture of the manner in which the premium highway has been constructed and is being maintained.

In such circumstances, the corrective measures be taken and the fresh status reports be filed by the said authority and the issue which has been raised by Amicus Curiae is of the grave concern as traffic is likely to increase manifold in view of the coming tourist season which commences from May to end of June, 2025, before the onset of the monsoon.

It has been pointed out that at only one or two places, the work of Hydroseeding has been carried out on slope protection (planting of vegetation on the netting). Accordingly, active steps be taken to ensure the Hydroseeding is done where the work has already been completed so that the debris below the net also becomes stable.”

16. Subsequently, vide order dated 26.06.2025, we had noticed that slope protection had been carried out at 17 locations and that there were

7 diversions between Solan to Kaithlighat, which is a stretch of approximately 21 kilometers, with no mention having been made regarding reduction of such diversions on this stretch. Sufficient time and leverage have already been given to the authority.

17. It is also a matter of record that at locations where slope protection was not carried out, debris have fallen, and at one place even along with the netting of slope protection.

18. Resultantly, keeping in view the present condition of the highway and the exorbitant charges which are being levied, it is apparent that a common citizen is not even able to use the highway without putting his vehicle at risk and damage which leads to high maintenance cost to run vehicles by the citizens, whereas the NHAI continues to charge toll.

19. Resultantly, we are of the considered opinion that for an interim period, until the authority puts its act in place and makes the highway roadworthy, the toll which is being collected, is liable to be suspended. We take strength from the orders passed by the Hon'ble Apex Court while upholding the interim order of the Division Bench of the Kerala

High Court in **Special Leave Petition (C) No.22579 of 2025, National Highway Authority of India & Anr v. O.J. Janeesh & Ors.**, on 18.08.2025, wherein it has been held as under:-

11. *We cannot but agree with the reasoning of the High Court that: "The obligation of the public to pay a user fee under statutory provisions is premised on the assurance that their use of the road will be free from hindrances. When the public is legally bound to pay a user fee, they simultaneously acquire a corresponding right to demand unhindered, safe, and regulated access to the road. Any failure on the part of the National Highways Authority or its agents to ensure such access constitutes a breach of the public's legitimate expectations and undermines the very basis of the toll regime" (sic).*
12. *The NHAI is aggrieved with the reservation made by the High Court with respect to the liability for damages occasioned, due to the suspension of toll for four weeks. The Concessionaire, however, has specifically pointed out that their operations and maintenance would be put in jeopardy if the toll is suspended. The NHAI clearly absolves the Concessionaire from the liability or responsibility for the present situation. NHAI also does not raise any ground regarding any defect in the maintenance of the main carriageway having not been carried out. The categorical case is that it is the further work on the black spots that has led to the traffic jam on the roads.*
14. *Apart from the arguments and counter arguments made by the NHAI and the Concessionaire, we are more concerned with the plight of the harried citizen, the strained environment and the abject wastage of fuel. Both parties also blame the Contractor who has not properly taken up the work of service roads, at the black spots identified by the NHAI, who, as rightly pointed out by the Concessionaire is not a party before the High Court or this Court. We would not hence make any observation regarding the responsibility or otherwise of the said Contractor as of now.*
17. *In the meanwhile, let the citizens be free to move on the roads, for use of which they have already*

paid taxes, without further payment to navigate the gutters and pot-holes, symbols of inefficiency.”

20. Thus we direct suspension of toll collection at Sanwara Toll Plaza @ Km 80.720 (Parwanoo – Solan Section) w.e.f. 20.09.2025 till 31.10.2025.

21. Needless to say, the Deputy Commissioner, Solan, shall provide necessary assistance to the NHAI, wherever so required, on a written request being made, for closure of certain section for repair for one of the lanes as demanded by the NHAI.

22. The Deputy Commissioner, Solan, is directed to extend assistance and ensure that law and order problems, if any, are addressed in case private persons resist the slope protection work.

23. Similarly, the stretch from Kaithligath to Shimla is supposed to be under the supervision of NH Division, PWD. It is also a matter of record that there are certain stretches near Shoghi Industrial area, which are not roadworthy and the road has a resemblance to moonscape and does not exist and only potholes are greeting the travellers.

24. Accordingly, the State shall take appropriate measures to rectify the said stretch by

issuing necessary orders for grant of funds and ensure that the Section is repaired by the next date, since it has been stated that the NHAI contributes funds to this Section to the State for the maintenance.

25. List on **30.10.2025**, for filing of fresh status report.

(G.S. Sandhawalia)
Chief Justice

(Ranjan Sharma)
Judge

September 18, 2025
[Shivender/Himani]