

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

CWPIL No. 110 of 2024

[Item D-1]

21.05.2026 Present: Court on its own motion.

Mr. Arsh Rattan, Deputy Advocate General, for respondents No. 1 to 3/State.

Mr. Balram Sharma, DSGI with Mr. Ajeet Saklani, Advocate, for respondent No.4.

In pursuance of the last order, Er. Surender Pal Jagota, Engineer-in-Chief (Projects), PWD, is present in person alongwith Mr. Ajay Kapoor, NH Division, PWD, and an affidavit dated 28.03.2026 has been filed on behalf of Engineer-in-Chief (Projects) PWD. Perusal of the same would go on to show that there is a categorical admission that the Hindustan Tibet Border Road, which carries the traffic of the apple-producing belt of Shimla and also the vehicles and heavy machinery of the hydroelectric projects of Kinnaur in District Shimla, has been damaged extensively and that the deponent has visited the stretch and also perused the report submitted by the District Legal Services Authority. It is mentioned that the said stretch from kilometer 153/180 to 208/700 is being maintained by the National Highway Wing of HPPWD, with partial funds being provided by the Ministry of Road Transport and Highways. The entire stretch of the road from Dhalli to Narkanda was surfaced with

Bituminous Concrete between the years 2021 to 2024 and has been damaged on account of heavy monsoons during 2023 and 2025.

There is also apparently an admission that during the Defect Liability Period, the maintenance of the road was to be carried out by the contractor, M/s Ganpati Traders, for a period of five years, i.e. 2022 to 2027, and by M/s DCC Buildcon Private Limited for a period of five years, i.e. 2021 to 2026. The said contractors had only carried out some repair works in the year 2024 and had not executed the work to the extent it was required on the stretches of the road, and breaches of the terms of the contract and the relevant provisions of the contract agreement and the termination clauses have been invoked and the contracts have been terminated and penalty has been imposed. It has been mentioned that now the work is being carried out by way of temporary patch work on the 55-kilometer stretch. The remaining length is stated to be 14 kilometers on which work is still to be completed. The photographs showing the work, as such, being carried out have been placed on record as Annexure R-A Colly. The justification is put forth that the work involves bituminous surfacing and completion of targeted works, subject to favourable weather conditions,

and shortage of bitumen due to the US-Iran war, which may lead to delay.

It is further mentioned that a sum of Rs.86 crores for strengthening the stretch has been framed and submitted to the Regional Officer, MoRTH, Shimla, on 28th March, 2026, and which has been followed up on 18th May, 2026.

Counsel for the Union of India has submitted as per the affidavit of the Executive Engineer, MoRTH, in similar terms that the work that has not been carried out on the stretches of the road and patch, work has been carried out. After receiving necessary sanction from the MoRTH, tenders would be invited and would thereafter be awarded after technical and financial evaluation and, till the start of the work, the State PWD is to maintain the road in motorable condition.

The said affidavits do not give the details of how much payments have been made to the contractors during the defect liability period over the years and what penalty has been imposed upon them. Accordingly, let an affidavit be filed to the said extent, as it is imperative to find out the lack of responsibility on account of not having maintained the premium highway.

In the meanwhile, the Union of India shall make efforts to ensure that the necessary sanctions are

received. We are of the considered opinion that the patch work, which is also being carried out, would only barely suffice during the rainy season and, resultantly, we make it clear that even if the funds are received and the work is started, it will only commence before the monsoon starts and the work will be suspended during the monsoon season and only after the rains in September, 2026, work would be restarted to ensure that there is no misappropriation of the funds which are likely to be received from the Union of India, as it is a standard practice of this department to start work just before the start of the rains and pass on the responsibilities to the weather conditions. The officials shall remain present on the next date of hearing.

List on 1st July, 2026.

(G.S. Sandhawalia)
Chief Justice

(Bipin C. Negi)
Judge

21st May, 2026
(Tarun Singh)