

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 218/2017
(Earlier O.A. No. 506/2015)

And

Original Application No. 230/2017
(Earlier O.A.No.506/2015)

And

Original Application No. 240/2017
(Earlier O.A.No.506/2015)

And

Original Application No. 564/2017
(Earlier O.A.No.506/2015)

And

Original Application No. 571/2017
(Earlier O.A.No.506/2015)

And

Original Application No. 573/2017
(Earlier O.A.No.506/2015)

And

Original Application No. 576/2017
(Earlier O.A.No.506/2015)

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Original Application No. 577/2017
(Earlier O.A.No.506/2015)

And

Original Application No. 69/2017
(Earlier O.A.No.506/2015)

And

Original Application No. 530/2017
(Earlier O.A.No.506/2015)

And

Original Application No. 578 of 2017
(Earlier O.A. No. 506/2015)

And

Original Application No. 591 of 2017
(Earlier O.A. No. 506/2015)

And

Original Application No. 592 of 2017
(Earlier O.A. No. 506/2015)

And

Original Application No. 727 of 2017
(Earlier O.A. No. 567/2017)

And

M.A No. 472/2018

In

Original Application No. 506/2015

And

Original Application No. 678 of 2017
(Earlier O.A. No.506/2015)

And

M.A No. 1287/2017

In

Original Application No. 506/2015

And

Original Application No. 575 of 2017
(Earlier O.A. No. 506/2015)

And

Original Application No. 572 of 2017
(Earlier O.A. No. 506/2015)

And

Original Application No. 584 of 2017

(Earlier O.A. No. 506/2015)

And

Original Application No. 585 of 2017

(Earlier O.A. No. 506/2015)

And

Original Application No. 586 of 2017

(Earlier O.A. No. 506/2015)

And

Original Application No. 590 of 2017

(Earlier O.A. No. 506/2015)

And

Original Application No. 353 of 2018

(Earlier O.A. No. 274/2017)

(Earlier O.A. No. 506/2015)

And

Original Application No. 500/2017

(Earlier O.A.No.506/2015)

And

Original Application No. 560/2017

(Earlier O.A.No.506/2015)

And

Original Application No. 562/2017

(Earlier O.A.No.506/2015)

And

Original Application No. 574/2017

(M.A. No. 321/2018)

(Earlier O.A.No.506/2015)

And

Original Application No. 579/2017

(Earlier O.A.No.506/2015)

And

Original Application No. 581/2017

(Earlier O.A.No.506/2015)

And

Original Application No. 583/2017

(Earlier O.A.No.506/2015)

And

Original Application No. 589/2017

(Earlier O.A.No.506/2015)

IN THE MATTERS OF:

Society for Preservation of Kasauli and its Environs (SPOKE)

Vs.

M/s Kasauli Glaxie Resorts

And

Society for Preservation of Kasauli and its Environs (SPOKE)

Vs.

M/s. Kasauli Resorts Pvt. Ltd.

And

Society for Preservation of Kasauli and its Environs (SPOKE)

Vs.

M/s Bonzo Resort Ltd.

And

Society for Preservation of Kasauli and its Environs (SPOKE)

Vs.

Irvinder Singh (Winnies Holiday Inn)

And

Society for Preservation of Kasauli and its Environs (SPOKE)

Vs.

Depender Lal (Dippy's Guest House)

And

Society for Preservation of Kasauli and its Environs (SPOKE)

Vs.

M/s Binnie Mushroom Farm (Kasauli Exotica)

And

Society for Preservation of Kasauli and its Environs (SPOKE)

Vs.
Smt. Geetika Sood & Sh. Vivek Sood (VG Company)
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
Yashoda Nand
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
Bird's View Resort
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
Hotel Neelkanth (Radhey Shyam Garg)
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
Sherry Chopra (M/s Kasauli Village Resorts)
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
Chaman Lal (Hotel Namaskar Fast Food and Restaurant)
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
M/s Kasauli Inn (Kasauli Castle)
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
Arun Sain & Smt. Pushpa
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
Himachal Pradesh Tourism Development Corporation & Ors.
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
Himachal Pradesh Tourist Development Corporation (HPTDC) & Ors.
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
Himachal Pradesh Tourism Development Corp. & Ors.
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
M/s M & R International
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
Raj Kamar & Ghanshyam
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
Victoria Continental Inn
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
M/s Pine Wood Resort Pvt. Ltd.
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
Himachal Country Resort Regd.
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
Hari Krishan
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
M/s Barog Heights Hotel
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
M/s Blossom Hotel

And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
M/s Nestor Agro and Export Ltd. (Kasauli Heritage Plaza)
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
Bhagwan Dass Bhardwaj (Hills Pride Resort)
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
Roshan Lal (Suhana Resort)
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
Muninder Singh Thakur (Kasauli Continental Resort)
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
Brig. N.S. Sandhu
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
Pine Grove School
And
Society for Preservation of Kasauli and its Environs (SPOKE)
Vs.
M/s Missus More Resorts Pvt. Ltd.

CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

Present: Applicant

Mr. Archit Upadhayay, Adv.
Mr. A. R. Takkar, Amicus Curiae with Ms. Shreya Takkar and Mr. Ajay Bansal, Adv.
Mr. Abhinav Mukherji, AAG for State of Himachal Pradesh and HPTDC and Mr. Siddharth Garg, Adv.
Mr. Divya Prakash Pande, Adv. for HPSPCB
Mr. Umesh Sharma, Adv. for M/s Bonzo Resort Ltd.
Mr. P.S. Patwalia, Member, SPOKE in Item No. 17
Mr. Ayush Negi, Adv. for Noticee no. 36 Missus More Resorts Pvt. Ltd..
Mr. Sanjay Kumar, Adv. for State of Himachal Pradesh
Mr. Aditya Dhawan and Ms. Kiran Dhawan, Adv. for H.P. State Electricity Board
Mr. Arvind Kumar Sharma, Adv. for Respondent No. 6 for Cantonment Board in Item No. 15, 16 & 17
Mr. Sandeep Mishra, Adv. in Item No. 31
Mr. Aslam, Adv. for State of H.P. in M.A. No. 472/2018
Mr. M.S. Kalra, Mr. Nishant Shankar, Mr. Nitesh Shrivastava, Ms. Isha Khurana and Mr. Arvind Lhari, Adv. in O.A. No. 230/2017
Mr. Abhimanyu Gupta and Mr. Abhishek Vashisht, Adv. in Item No. 18
Mr. Sumeer Sodhi, Adv. in Item Nos. 1,4,6,11,13 & 24
Mr. Gudipati G. Kashyap, Adv. for Noticee Hotels in item Nos. 5,8,12,28 & 29
Mr. Dhruv Pal, Adv. for R-1, Original Application No. 500/2017
Mr. Rahul Khurana, Adv. for Noticee in Item No. 30
Mr. Rajesh K. Singh and Mr. Rovins Verma, Adv. for Ministry of Environment, Forest and Climate Change

Respondents:

	Date and Remarks	Orders of the Tribunal
	<p>Item Nos. 01 to 32</p> <p>October 05, 2018</p> <p>A+DV+R</p>	<p>1. This order deals with the matter in continuation of earlier order of this Tribunal dated 06.03.2017¹ in Original Application No. 506 of 2015. The said original application was filed against construction of 42 rooms hotel-cum-National Museum and Geo-park-cum-restaurant.</p> <p>2. The grievance of the applicant was that the Kasauli town has fragile ecology. The town had water scarcity, lack of basic facilities like sanitation and drainage etc. There was no sewage system. In such circumstances, permitting the Himachal Pradesh Tourism Development Corporation (HPTDC) to build a commercial complex will be prejudicial to the environment and ecology. This will further add to water scarcity, felling of trees, air and noise pollution and congestion.</p> <p>3. The HPTDC justified the project with the plea that the same was conceived after taking requisite permissions from the Town and Country Planning Department, the Pollution Control Board and the Cantonment Board. The Project in question has arrangement for sewage treatment, recycling and re-use of water for gardening and irrigation purposes; there is system for efficient waste management, generation of solar energy and water harvesting. The project is compliant with all environmental laws.</p> <p>4. On 06.03.2017, the Tribunal considered various aspects of the matter and quashed the Consent to</p>

¹ 2017 NGTR (1) PB 691

	<p>Item Nos. 01 to 32</p> <p>October 05, 2018</p> <p>A+DV+R</p>	<p>Establish (CTE), granted by the Himachal Pradesh Pollution Control Board vide order dated 17.12.2015. The Tribunal noted that the HPTDC applied for Consent to Establish on 15.12.2015 and the HPPCB granted such consent on 17.12.2015 i.e. within two days, without proper assessment of environmental impact. Inspection is said to have been done on 15.12.2015 itself without any application of mind. The HPPCB accepted that the domestic effluent was to be treated in the STP by wrongly assuming that there will be only 61 tourists and staff, as against estimated strength of 200. Another aspect which was ignored by the Himachal Pradesh Pollution Control Board was that rain water storage tank, the soak pits for sewage and the STP would be clustered within an area of 1 acre which may lead to seepage and soakage flow, from one tank to other, leading to contamination. Since the area was Cantonment area, provisions of Cantonments Act, 2006 were applicable. The Cantonment Board gave NOC on 31.12.2013 with the condition that it will not provide any additional water. The HPTDC will take care of the road and maintain visitors register, take clearance from Forest Department for cutting trees. It will take permission for digging of well and take clearance for other aspects of the projects. The Hotel was authorized to build 25% on total area which was 5000 sqm. and area left for sanitation will be only 500 sqm. as against the requirement of 2000 sqm.</p> <p>5. The Tribunal also considered the impact of the ecology of the town and water scarcity in the area. It was also noted that the permission for digging borewell was</p>
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	<p>Item Nos. 01 to 32</p> <p>October 05, 2018</p> <p>A+DV+R</p>	<p>granted by Cantonment Board though the Competent Authority was Himachal Pradesh Ground Water Authority under the Himachal Pradesh Ground (Regulation and Control of Development and Management) Act, 2005.</p> <p>6. While quashing the Consent to Establish, the Himachal Pradesh Pollution Control Board was directed to re-consider the grant after verification of the site, adequacy of land available for parking, setting up of STP, municipal waste processing plant, rain water harvesting system, and open areas for ingress and egress of vehicles.</p> <p>7. The Tribunal directed constitution of a Special Expert Committee to have dual assessment of impact of the project on the ecology of the Kasauli Town, as well as the carrying capacity of the Town in terms of tourist inflow, vehicular traffic, scarcity of ground water, availability of drinking water, impact on air quality and bio-diversity. The Committee was also to consider whether the project could be continued in the present form or with restrictions apart from the other parameters which were to be considered. The Committee was to comprise of : (i) An expert of Ecology from G.B Pant Institute, Almora, Utrakhand, to be nominated by the Director of Institute; (ii) Chief Town Planner, Shimla or senior Architect (Planner) from PWD; (iii) A senior Scientist from MoEF & CC, to be nominated by the Secretary, MoEF & CC; (iv) A senior Scientist from the Indian Council of Forestry Research and Education, Dehradun; v) Senior Scientist from Wadia Institute of Himalayan Geology, Dehradun, to be nominated by the</p>
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	<p>Item Nos. 01 to 32</p> <p>October 05, 2018</p> <p>A+DV+R</p>	<p>Director; (vi) Scientist/senior official from the Central Ground Water Board, New Delhi; (vii) Scientist/senior official from Central Pollution Control Board and (viii) Member Secretary, Himachal Pradesh Pollution Control Board, who was to be Nodal Officer.</p> <p>8. The proceedings were disposed off but it was directed that the report received from the Committee may be separately registered and placed before the Tribunal.</p> <p>9. Accordingly, report of the Committee was filed before this Tribunal on 01.11.2017 which has led to registration of the present application i.e. Original Application No. 678/2017.</p> <p>10. We must observe that the Committee constituted has done a thorough study of the issues after carrying out field visits.</p> <p>11. The report of the Committee is in three parts:- Part A: Report of Kasauli Planning Area (KPA) Part B: Report of HPTDC Hotel Site Part C: Summary of Final Recommendations.</p> <p>12. In Part A, the Committee considered general profile of Kasauli Planning Area (KPA). In its summary, it observed that the area had witnessed lopsided development. Over 60% of the area was without vegetation cover, leading to high soil erosion. The planning area was moderately expanding in form of ribbon development, along the movement corridor which is a standard pattern in hill area. Road was reduced on account of encroachment. The development mainly depends on surface water sources. The Committee also considered engineering geological inputs i.e. earthquakes</p>
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	<p>Item Nos. 01 to 32</p> <p>October 05, 2018</p> <p>A+DV+R</p>	<p>and landslides. The Committee examined bio-diversity in the area including eco-system services. As regards development, planning and regulation, it was observed that a revised development plan was notified by the Government of Himachal Pradesh on 22.10.2009 which allows three storeyed plus one parking floor in the KPA. The plan also requires availability of water supply for permitting hotels, apartments and commercial projects. It also emphasized that 'no retention policy' in view of fragile ecology. The revised Development Plan 2020-21, for the KPA under the Himachal Pradesh Town and Country Planning Act, 1977, provides for freezing the KPA and regulation of constructions/development activities. Land use is to be regulated by the regulatory regime. As regards hydrological characteristics, it was noted that supply of water was not sufficient to meet the demand and steps for augmenting water supply were required. With regard to environmental sustainability the view of the Committee is that management of sewage system, water supply and disposal of municipal solid waste is dismal. Water supply is acutely insufficient. There is no sewerage infrastructure. MSW waste is unscientifically disposed of in violation of Solid Waste Management Rules, 2016. Carrying capacity has been over reached. Accordingly, it was suggested that construction of hotels should be restricted till infrastructure is sufficient and infrastructure for organized solid waste disposal is available. Due diligence assessment was required for the construction of hotels in respect of aspects of layout, water supply, solid waste, bio-diversity, geological study and other important</p>
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	<p>Item Nos. 01 to 32</p> <p>October 05, 2018</p> <p>A+DV+R</p>	<p>issues. With regard to road infrastructure and parking, it was observed that there was no sufficient parking facilities; no sufficient road infrastructure; there was overcrowding and bottlenecks for the traffic; location of bus stand contributed to the chaos.</p> <p>13. Part B – deals with the HPTDC proposed hotel project. The site is in slope category to 15 to 25 degree and partially to 35 degree and the construction was to be ground plus two storeys. Ground water extraction permission has been obtained so that hotel is not dependent on water supply. Structure stability certificate has been obtained. Site is in flat area and construction will not cause damage to forest and ecology. Foundation has already been laid. There is a proposal to maintain vegetative cover between sewage treatment tank and the borewell. There was environmental sustainability on account of water balance proposed. It was recommended that the construction should not commence without obtaining prior permission for the ground water extraction from the concerned Groundwater Authority. Rain water harvesting and groundwater recharge structures should be installed. Groundwater table should be monitored. There should be water meter installed to regulate the extraction of groundwater; STP capacity should be re-assessed; measures should be taken to combat any odour; there should be pre-treatment of waste water from laundry discharge; no sewage should be sent to septic tanks and soak pits; after STP is set up, treated water should be fully utilized in flushing, gardening; sewage should be utilized in gardening and Solid Waste Management Rules, 2016</p>
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	<p>Item Nos. 01 to 32</p> <p>October 05, 2018</p> <p>A+DV+R</p>	<p>should be followed.</p> <p>14. The Committee further observed that there should be sufficient open space around the building. For additional car parking requirements, provision should be made and Khetrapal Marg road should be widened.</p> <p>15. The final recommendations of the Committee with regard to KPA include augmenting the infrastructure for roads, water supply, solid waste, ground water, to reduce the gaps in the availability of infrastructure and demand, 'no retention policy' should be extended to the KPA in view of fragile ecology. Proper lined drains on slopes must be constructed. The Tree Committee should be set up. Steps should be taken for ground water recharge and conserving natural streams, utilising the treated waste water, optimising the use of water; Solid waste and sewage management should be improved; air quality, road infrastructure and parking should be improved.</p> <p>16. As regards HPTDC hotel site, it was recommended that Consent to Establish and Consent to Operate may be given by the HPSPCB, subject to recommended safeguards. However, the Expert Members from the MoEF&CC and CPCB suggested that permission should be considered after organised water supply is augmented sufficiently and infrastructure for solid waste disposal is developed. There should be a DPR with regard to water balance, geological stability, provisions for safety treatment, solid waste management, rain water harvesting, groundwater recharge, safety, road and parking.</p>
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	<p>Item Nos. 01 to 32</p> <p>October 05, 2018</p> <p>A+DV+R</p>	<p>17. We have heard the learned Counsel appearing for the parties at length, on 06.09.2018, 07.09.2018 and today. We may also note that under earlier orders of this Tribunal, certain unauthorised constructions were required to be demolished in respect of adjoining buildings. The said matter was taken in appeal before the Hon'ble Supreme Court by way of <i>Civil Appeal No(s). 8343/2017</i> and other connected Appeals titled as <i>M/s. Narayani Guest House Vs. Society For Preservation of Kasauli and its Environs</i>. The appeals were disposed of on 17.04.2018 with the observation that unauthorised constructions should be demolished and fine be deposited with the concerned authorities.</p> <p>18. We may also note that an application has been filed by the Cantonment Board, Kasauli to the effect that in view of traffic congestion in the Cantonment area, a multi-level parking has been proposed which will include bus stand on the ground floor and car parking on upper three floors. The same has been sanctioned by the competent authority. A resolution has been passed on 12.07.2017 by the Cantonment Board for construction of the said parking.</p> <p>19. An application has also been filed by the Town and Country Planning Department seeking clarification on the issue of regulation of construction activities to the effect that the earlier direction of this Tribunal vide order dated 06.03.2017 that there should be no construction in the town of Kasauli till further order of the Tribunal and no permission should be given for such construction, should apply to constructions according to the</p>
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	<p>Item Nos. 01 to 32</p> <p>October 05, 2018</p> <p>A+DV+R</p>	<p>Development Plan.</p> <p>20. The HPTDC has also filed an application for direction that it may be permitted to carry out the construction. In the said application it is stated that on reconsideration in terms of order of the Tribunal dated 06.03.2017, the HPSPCB has granted Consent to Establish on 17.11.2017, subject to the conditions mentioned in the said letter. Condition no. 18 is to the effect that the recommendations of the Expert Committee with regard to setting up STP of capacity of 25 KLD of the specified technology and use of treated water in the prescribed manner, having tanks to store 55000 litres of water should be followed. The letter refers to 29 conditions as per the recommendations of the Special Expert Committee.</p> <p>21. It is not necessary to repeat all the said conditions except to say that the said conditions take care of the requirements of waste disposal, groundwater harvesting and recharge, structural design of the buildings, parking facility, water balance, regulation of borewell, sewage management, building safety, parking, drainage system and use of clean fuel for cooking and also for use in boilers.</p> <p>22. The Town and Country Planning Department has filed an affidavit of compliance to the effect that revised Development Plan has been prepared keeping in mind the recommendations of the Expert Committee, taking care of rain water harvesting requirements, in accordance with the Himachal Pradesh Ground Water (Regulation</p>
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	<p>Item Nos. 01 to 32</p> <p>October 05, 2018</p> <p>A+DV+R</p>	<p>and Control of Development and Management) Act, 2005. Steps have been taken with regard to air quality, road infrastructure, parking and traffic congestion. However, there is no water supply system, sewage management and solid waste management.</p> <p>23. The above resume of proceedings and rival contentions show that as far as the Kasauli Planning Area is concerned, many of the significant points raised by the Expert Committee have not been met, especially with regard to the water supply scheme, mapping of groundwater, water resources, solid waste management as well as sewage management.</p> <p>24. Synopsis filed on behalf of the State of Himachal Pradesh clearly show that so far there is no scheme for solid waste management. In the response column, it is stated that this Tribunal may issue directions in this regard on the pattern of directions issued by this Tribunal with regards to the city of Shimla in <i>Original Application No. 121/2014, Yogindra Mohan Sengupta Vs. Union of India & Ors.</i>² Similar is the stand with regard to sewage management. There is further statement that zero discharge is not feasible but dual plumbing system, waste water recycling and its utilization may be possible. With regard to water supply, it is stated that a DPR at proposed cost of Rs. 23.24 crores has been prepared for water supply scheme. Mapping of ground resources was not viable. Rain water harvesting may not be possible in buildings having roof areas less than 200 sq. mts. But collection of rain water from the roof tops for other</p>
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² (2018) NGTR(1) PB 250

	<p>Item Nos. 01 to 32</p> <p>October 05, 2018</p> <p>A+DV+R</p>	<p>buildings has been made mandatory.</p> <p>25. As regards the project of HPTDC, the grievance on behalf of the applicants is that there is huge water scarcity in the area. Operation of borewell by the project proponent will add to the problem. Permission for the borewell has been given without considering the competing claims. The project should not be taken on stand alone basis but seen in the light of the entire Kasauli Planning Area which was highly congested and has no adequate infrastructure for roads, solid waste management, sewage disposal management and water supply. Setting up of the project will lead to inflow of tourists and vehicles and will stress the scarce resources of the area, adversely affecting the environment in terms of air quality, water availability and waste disposal.</p> <p>26. On the other hand, learned Counsel for the HPTDC and the State of Himachal Pradesh state that steps have been proposed for setting up of water supply system, sewage disposal system, providing parking and further safeguards will be adopted in the light of the Expert Committee Report. The Expert Committee also recommends that the project is viable. The HPSPCB has granted fresh 'Consent' in pursuance of earlier order of the Tribunal, subject to the conditions necessary for protection of the environment by including all the conditions suggested by the Expert Committee.</p> <p>27. The Tribunal is guided by the principle of 'Sustainable Development' laid down in the decisions of the Hon'ble Supreme Court as well as in Section 20 of the</p>
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	<p>Item Nos. 01 to 32</p> <p>October 05, 2018</p> <p>A+DV+R</p>	<p>National Green Tribunal Act, 2010 (NGT Act). The needs of the present generation have to be met without irreversibly prejudicing the environment and scarce resources for future generation. Development must not be at the cost of environment. We are, thus, of the view that instead of prohibiting the proposed project conceived by a public authority in the interest of development, the project proponent must be subjected to rigorous conditions for protection of the environment, the Expert Committee has so suggested. There is no reason to reject the expert view. We are also of the view that the State of Himachal Pradesh and other authorities must also take immediate steps to cover up its past failures of having proper water supply system, sewage management and waste disposal system, ground water conservation system, road infrastructure and management of vehicular traffic and parking consistent with the needs of ambient air quality, keeping in mind the micro climate and biodiversity, disaster management requirements, seismicity and proneness to landslides etc.</p> <p>28. The State of Himachal Pradesh must act consistent with the Expert Committee report with regard to the entire KPA. Apart from the said requirement, in view of the suggestion of the State of Himachal Pradesh itself, the safeguards and directions in terms of judgment of this Tribunal with regard to Shimla town must also be followed, consistent with the concept of 'Precautionary Principles', 'Sustainable Development' and 'Polluter Pays Principle' as per Section 20 of the NGT Act.</p> <p>29. Needless to say that the hilly areas have their own</p>
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	<p>Item Nos. 01 to 32</p> <p>October 05, 2018</p> <p>A+DV+R</p>	<p>ecosystem and peculiar needs on account of fragility and their unique flora and fauna. In this regard, various studies relating to ecology of mountains have been referred to in the judgment of this Tribunal in <i>Yogindra Mohan Sengupta (supra)</i>. There has been increasing pressure of human activities in recent times causing serious threat by unregulated exploitation on account of commercial and other human activities. There have been instances of landslides, earthquakes and other disasters and tragedies including cloud bursts, flash floods, snow avalanches and droughts. No welfare State can remain oblivious to the need of safety of its citizens as well as protection of the environment.</p> <p>30. Accordingly, consistent with the directions already issued by this Tribunal in <i>Yogindra Mohan Sengupta (supra)</i>, we direct as follows:</p> <ol style="list-style-type: none"> i. There will be no new construction of any kind in Kasauli Planning Area, except in accordance with the Development Plan, 2021. ii. No construction beyond two storeys plus attic floor plan shall be permitted except with respect to Government hospitals, fire services, schools, colleges, buildings and utilities of public services and infrastructure on its approval by a Special Committee, as has been done for Shimla Planning Area. iii. Old structures in the KPA which are found unfit for human living may be allowed to be reconstructed within the structural limits consistent with the Development Plan referred
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to above strictly within legally permissible structural limits of old buildings and for same/permissible use.

iv. There will be no regularization of unauthorized constructions in the KPA and green/forest areas which have been raised without obtaining any prior permissible/sanction of plans in entirety. It shall also include constructions in complete violation of the sanctioned plan or where additional floors have been constructed in contradiction to the concept of deviation or variation to constructed area for which the plan was sanctioned. In such cases the authorities shall take action in accordance with law.

v. With respect to unauthorized structures where plans have been submitted and construction work with deviation have been completed prior to this judgment and the authorities consider it appropriate to regularize such structures beyond the sanctioned plan, in that event the same shall not be compounded or regularized without payment of environmental compensation at the rate of Rs. 5,000/- per sq. ft. for exclusive self-occupied residential buildings and Rs. 10,000/- per sq. ft. for commercial or residential-cum-commercial buildings. The amount should be utilized for development of the environment of the area by being kept in separate account.

vi. Water supply system and municipal solid waste management system will be set up in the KPA

	<p>Item Nos. 01 to 32</p> <p>October 05, 2018</p> <p>A+DV+R</p>	<p>positively within six months. With regard to sewerage network and sewage management system, a timeline of nine months as requested by learned Counsel for the State of Himachal Pradesh is accepted on the condition that no extension for execution of work will be permitted.</p> <p>vii. The parking proposed by the Cantonment Board is approved with the observation that the Cantonment Board shall strictly ensure that no road side parking takes place in Cantonment area.</p> <p>viii. Slope of 45 degree for construction on hard sub-surface and 35 degree for soft rocky areas will apply. The concerned department shall ensure that no construction activity takes place where the slope is more than 45 degree/35 degree in any case, which should be prior to cutting of hills.</p> <p>ix. The State Government shall ensure strict enforcement of BIS Codes for earthquake safety for structural stability of buildings.</p> <p>x. The State Government to strictly follow BIS Codes for containing landslides in Kasauli Planning Area besides following BIS National Building Code (Part-4) – Fire Protection which includes comprehensive recommendations on minimum standards for fire protection.</p> <p>xi. Permissible ground coverage in Kasauli Planning Area is high which needs to be amended so that new buildings have lesser</p>
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	<p>Item Nos. 01 to 32</p> <p>October 05, 2018</p> <p>A+DV+R</p>	<p>ecological footprints.</p> <p>xii. In view of water scarcity situation and future water demand, protection and rejuvenation of watershed should be one of the key interventions for sustainable watershed management in Kasauli Planning Area.</p> <p>xiii. Some of the most common physical vulnerabilities viz. presence of soft story, irregular plan, pounding, lack of frame action, incorrect stirrup detailing, short column effect on buildings built on slopes, differential settlement of foundation etc. be avoided by the Town and Country Planning Department for new constructions.</p> <p>xiv. If any person is found to be damaging forest area or cutting hills without grant of permission of concerned authorities and without construction plan being sanctioned, he/she would be liable to pay environment compensation as determined by the concerned department but not less than Rs. 5 lakh for each violation.</p> <p>xv. The Registrar or such other authority vested with responsibility of registering documents of transfer or division of land shall not do so except with prior NOC from Town and Country Planning Department.</p> <p>xvi. To prevent the likelihood of urban sprawl taking place outside the territorial jurisdiction of Kasauli Planning Area, we direct the Town and Country Planning Department to ensure that no</p>
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	<p>Item Nos. 01 to 32</p> <p>October 05, 2018</p> <p>A+DV+R</p>	<p>unregulated and haphazard urban sprawl takes place outside Kasauli Planning Area.</p> <p>xvii. The concerned authorities including Forest Department of State shall plan to create Eco-trails and nature parks in and around Kasauli Planning Area and also create public awareness for nature and Himalayan ecology for the tourists.</p> <p>xviii. State Government to also plan atleast 3 (three) Construction & Demolition waste sites at appropriate places in Divisional Headquarters in State so as to prevent disposal of such waste along hill slopes.</p> <p>xix. Retro-fitting of old buildings with earthquake resistant fittings and construction of new buildings with earthquake resistant technology should be ensured by Cantonment Board and Town and Country Planning Department of the State.</p> <p>xx. Rain water harvesting system will be mandatory for all buildings in future. The existing buildings should make a provision for such system within six months, subject to viability as may be laid down by the concerned statutory authorities.</p> <p>xxi. Based on the recommendations of the Special Expert Committee, the HPTDC can go ahead with its tourism project subject to buildings not being more than two and a half storeys with the museum being excluded from their project. However, as a measure of abundant precaution, we restrict the number of rooms of HPTDC</p>
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	<p>Item Nos. 01 to 32</p> <p>October 05, 2018</p> <p>A+DV+R</p>	<p>Tourism Complex to 32 plus Banquet Hall/Conference Hall instead of 42 rooms plus Banquet Hall/conference Hall proposed earlier. Similarly, we restrict the parking to one third of proposed 60 vehicles including 5 vehicles for disabled persons. It may be considered whether there should be one structure or two structures from the point of view of earthquake resistance and expert opinion in this regard be taken. It is further directed that the parking of vehicles to be generally at the proposed Parking lot of the Cantonment Board. Further, the facilities of dropping and picking up by battery operated or e-vehicles be explored for which appropriate arrangements may be made by the State. The remaining area of proposed parking in the tourism complex may be used for more open areas including garden café, if found necessary.</p> <p>31. Apart from the existing statutory mechanism, it is necessary to set up an oversight mechanism to address any concern for protection of the environment. Such mechanism would be in the form of an Oversight Committee headed by a former Judge of the Himachal Pradesh High Court.</p> <p>32. The Committee will be as follows:</p> <p>(i) Justice Surjit Singh, former Judge, High Court of Himachal Pradesh as Chairman. He will be entitled to lump-sum remuneration of Rs. 2.25 Lakhs per month apart from such other</p>
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	<p>Item Nos. 01 to 32</p> <p>October 05, 2018</p> <p>A+DV+R</p>	<p>facilities as may become necessary to be provided for enabling him to discharge his functions by the State of Himachal Pradesh.</p> <p>(ii) Nominee of Central Pollution Control Board.</p> <p>(iii) Nominee of the State Town and Country Planning Department.</p> <p>33. The above Committee will be free to take assistance of any expert.</p> <p>34. The Committee may set up its own website for receiving or giving information.</p> <p>35. Any member of the public may also give suggestions or volunteer help to the Committee. The Committee may also take a call on any other incidental issues.</p> <p>36. The issue of some hotels being unauthorized including those who are party to this proceedings, which was taken up by this Tribunal, may now be dealt with by this Oversight Committee.</p> <p>37. The Committee will be at liberty to make any suggestions or issue advisories/recommendations to the State Pollution Control Board so that while granting Consent to Operate or Consent to Establish, suitable conditions can be imposed.</p> <p>38. The Committee will be at liberty to issue such advisories/recommendations to the Cantonment Board and the State Town and Country Planning Department as may be found necessary in the light of the above. This will also cover advisories/recommendations for recovering environmental compensation for any violation. Such amount must be kept in a separate account for being spent for the environment restoration in Kasauli</p>
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	<p>Item Nos. 01 to 32</p> <p>October 05, 2018</p> <p>A+DV+R</p>	<p>Planning Area.</p> <p>39. The Committee will also be at liberty to suggest any modification of the Development Plan in the course of its consideration.</p> <p>40. The MoEF&CC may frame set of guidelines with respect to carrying capacity assessment as applicable to similarly placed Hill Stations and Eco Sensitive Zones (ESZ) notified by MoEF&CC in the country to check hazards of unregulated development threatening the fragile ecology and safety within one month. The MoEF&CC shall submit the copy of guidelines to the Tribunal by e-mail at filing.ngt@gmail.com positively by 30th November, 2018 alongwith the list of such hill stations and ESZ for which Carrying Capacity Assessment is necessary. Thereafter, such similarly placed hill stations and ESZ in the country shall undertake Carrying Capacity Assessment Study as per the template and guidelines as finalized by the MoEF&CC within three months and submit compliance through MoEF&CC to this Tribunal.</p> <p>41. Copy of this order be sent to the concerned parties by e-mail.</p> <p>The applications are accordingly disposed of.</p> <p>....., CP (Adarsh Kumar Goel)</p> <p>....., JM (Dr. Jawad Rahim)</p> <p>.....,JM (S.P. Wangdi)</p> <p>.....,EM (Dr. Nagin Nanda)</p> <p style="text-align: right;">05.10.2018</p>
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