

Item No.01

(Court No.1)

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

(By Video Conferencing)

Original Application No. 389/2018
(Earlier O.A. No. 237/2013 (T_{HC}))

Court on its own motion

Applicant

Versus

State of Himachal Pradesh & Ors.

Respondent(s)

Date of hearing: 08.06.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE M. SATHYANARAYANAN, JUDICIAL MEMBER
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Respondent: Mr. Vikas Mahajan, AAG for the State of HP

ORDER

1. The issue for consideration is the remedial steps for maintaining ecology in the area of Manali and Rohtang Pass in Himachal Pradesh. Proceedings commenced on the basis of a letter addressed to the Chief Justice, Himachal Pradesh with the grievance that 4000 - 5000 vehicles were making round trips from Manali to Rohtang Pass resulting in huge pollution and damage to the environment.

2. Vide order dated 21.10.2010, a Division Bench of Himachal Pradesh High Court directed the Chief Secretary, H.P. to come up with an appropriate proposal in the matter to control the vehicular movement. Proceedings remained pending in the High Court for about three years till 15.07.2013 when the matter was transferred to this Tribunal for further consideration. During the pendency of the

proceedings before the High Court, an expert opinion was taken from NEERI, Nagpur about the carrying capacity of the area. The area was divided into five segments and regulatory directions were issued to restrict constructions and to control the movement of traffic based on the recommendations of the NEERI. In order to do so, directions were also issued with regard to the age and quality of the vehicles to be used and alternative means of transport, including rope ways, apart from proper solid and liquid waste management.

3. The matter was then considered on 10.10.2019 in the light of earlier proceedings and the status report filed on 05.10.2019 by the Additional Chief Secretary, H.P. It was observed: -

*“10. A status report has been filed on 05.10.2019 by the Additional Chief Secretary, H.P. **With regard to rope way from Palchan to Rohtang Pass, it is stated that Stage – I Forest Clearance for diversion of forest land for the project has been granted but the Stage –II Forest Clearance was held up as the area was within 10 Km. area of the wildlife sanctuary. Time period for notifying eco sensitive zone draft notification had expired and de novo proposal was required to be submitted. The Project Proponent had to deposit NPV for Stage – II Clearance and Wildlife Clearance. Some progress has also been reported with regard to construction of **STP at Marhi and Manali, parking facilities, construction of eco-friendly market at Marhi, development of solid waste development facilities, establishment of nature park at Gulaba, operation of electric buses, installation of weigh-in-motion bridge, ambient air quality monitoring, vehicular emission checking – cum awareness, STP at Manali but much remains to be done.*****

11. *Without prejudice in any manner to the directions already issued, we issue following directions: -*

1. *The State may take steps for Stage-II forest and wildlife clearance within one month and also submit fresh proposal for eco zone draft notification. The decision thereon may be taken by the MoEF&CC within one month. The State may follow up the matter with the MoEF&CC. Responsibility in the matter will be PCCF (Wildlife), H.P. and the concerned Joint Secretary, MoEF&CC.*

2. *The Irrigation and Public Health Department may ensure upgradation/completion of STPs at Marhi and Manali.*

3. *Urban Development Department may take steps to complete waste to energy plant. PWD may take steps for completion of parking and eco-friendly market near Gulaba. The steps may be completed expeditiously but not beyond 31.07.2020. If the work remains incomplete in any respect even upto 31.07.2020, an adverse entry must be made in the service record of the Additional Chief Secretary Incharge as well as the HOD concerned who are put to notice to complete their responsibility.*

4. *The Deputy Commissioner and SP, Kullu may ensure that vehicular movement is restricted and regulated in the manner already directed. They may coordinate with the Director, NIC (HP) for suitable safety measures in respect of concerned software at the check posts. The Deputy Commissioner, Kullu may file status report in this regard before the next date by e-mail at judicial-ngt@gov.in.*

5. *All other directions including establishment of nature park at Gulaba be expeditiously carried out and a further status report furnished quarterly as already directed.”*

4. The matter was last considered on 30.07.2020 in the light of status report dated 29.06.2020 under different headings. Direction was issued for taking further steps and filing updated status report. The operative part of directions is as follows: -

“4. A further quarterly status report dated 29.06.2020 has been filed under different headings as follows:

A. Local Administration/ Deputy Commissioner, Kullu:*with details of progress about Ropeway from Palchan to Rohtang, Construction of sewage treatment plant, Development of parking facilities, Construction of Eco-friendly Market and allotment of restaurants/shops at Marhi, Development of Solid Waste Management Facility at Manali*

B. Forest Department, Transport Department: *with progress relating to establishment of nature park at Gulaba*

C.H.P. State Pollution Control Board: *with progress regarding operation of electric buses, installation of weigh-in-motion bridge, vehicular emission checking-cum awareness and Sewage treatment plant (STP), Manali.*

5. In view of the above, **let further steps be taken and status report as on 31.12.2020 filed before the next date** by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.”

5. Accordingly, report dated 21.01.2021 has been filed by the Principal Secretary, Environment, H.P., giving the status of ropeways, Sewage Treatment Plant, parking facilities, eco-friendly market, Solid Waste Management facility, Nature Park, Electric Buses, installation of Weight in Motion, air quality and vehicular emissions, testing of samples from the STP. The relevant part of the report is as follows:-

“A. Local Administration /Deputy Commissioner, Kullu.

The Deputy Commissioner Kullu has submitted following status on the implementation of the directions of the Hon’ble Tribunal.

(i) Ropeway from Palchan to Rohtang

*The Project Head of M/s Manali Ropeway Pvt. Ltd. has informed that the Stage-II / Final Approval has been given by the MoEF&CC, Govt. of India vide its letter dated 07.02.2020. Final order of diversion of forest land shall be passed by the State Government after obtaining permission of the Hon’ble Supreme Court for which an Application being I.A. No. 55071/2020 in IA No.3840 (Disposed of) in WP (C) No. 202/1995 entitled T.N. Godavarman Thirumulpad Vs Union of India & others seeking permission for this project amongst others has been filed by the State Government and the same is listed for hearing on 20.01.2021. It is pertinent to mention that Hon’ble Supreme Court vide order dated 11.03.2019 passed in aforesaid IA No. 3840 (Disposed of) in WP (C) No. 202/1995 had imposed interim stay/ban on the processing of forest land diversion cases under FCA. Copy of order dated 11.03.2019 is annexed hereto as **Annexure -I**. Further, for obtaining the principal approval of environment clearance, matter was already taken up with the MoEF&CC GoI but it was lying pending for want of finalization of notification for declaring the Eco-sensitive Zone of Manali Wildlife Sanctuary.*

In this regard the PCCF (Wildlife) has informed that the final notification of Eco-sensitive zone around Manali Wildlife Sanctuary has now been issued vide Ministry of Environment Forest & Climate Change, Govt of India, Notification No. S.O. 3583 (E) dated 12.10.2020. Copy of

the Notification No. S.O. 3583 (E) dated 12.10.2020 in respect of Eco-sensitive Zone around Manali Wildlife sanctuary is annexed hereto as **Annexure-II**.

(ii) Construction of Sewage Treatment Plant at Marhi

As per the report submitted by the Executive Engineer, Jal Shakti Vibhag, Division No.1 Kullu, the construction work stand completed in all respects on 31.08.2020 except release of electric connection for which DTDO has already applied. The testing of plant shall be done on release of power connection or procurement of DG Set for which the process is ongoing.

(iii) Improvement/up-gradation of Sewage Treatment Plant at Manali

The Executive Engineer, Jal Shakti Vibhag, Division No. 1 Kullu has intimated that tender for this work was called on dated 06.06.2019 and was due for opening on dated 22.06.2019, but only a single bid was received and hence it was cancelled. The said tender was re-invited and opened on 27th September, 2019 but as a consequence no bidder qualified and the tender was once again cancelled. Thereafter, the tender was again invited and opened on dated 25.11.2019. The tender stands awarded to M/s S.S Engineering Corporation, Noida, District Gautam Budh Nagar (U.P) on 18.05.2020 and the contractor has started the work at site and the same is likely to be completed by June, 2021.

(iv) Development of parking facilities

As per earlier status report filed on 15.06.2020 two parking places with adequate parking facilities to cater to the present needs have already been developed near Gulaba.

The DTDO, Kullu has informed that the construction work of third parking at Gulaba Barrier is in Progress and 90% work of the same has been completed at the site. The remaining work will be completed by the HPPWD by April-May 2021 after the snow season withdraws.

(v) Construction of Eco- friendly market at Marhi and allotment of restaurants /shops at Marhi

The construction of Eco-friendly market at Marhi for fourteen numbers of restaurants and two stalls containing of three shops in each; total six shops have been completed. The allotment process of these restaurants and shops has also been completed in transparent manner and these stand allotted by the concerned SDM, Manali.

(vi) Development of Solid Waste Management facility at Manali

The Deputy Commissioner, Kullu has informed that as per the report of the Executive Officer, Municipal Council Manali, the Waste to Energy Project for the Management of the Solid Waste is being established at the existing site at Rangri, Manali. First section of the Solid Waste Management facility for the production of the Refuse Derived Fuel (RDF) is operational. RDF is being sent to ACC Barmana Cement Plant. The Municipal Council, Manali has signed Memorandum of Understanding (MOU) with M/s Nextgen Chemicals Pvt. Ltd. on 05.08.2017 to setup Waste to Energy Plant (second section) of the capacity to treat 35 Tons of Waste /garbage per day to generate 1MW electricity. Efforts are being made to set up the second section.

B. Forest Department

(I) Establishment of Nature Park at Gulaba

The Conservator of Forests, Kullu informed that detailed plan for establishment of Nature Park at Gulaba has been prepared. An amount of Rs. 35 lacs has been provided by Deputy Commissioner, Kullu from Green Tax Fund which stand utilized upto 31.10.2020. For the construction of the remaining work of the Nature Park, Gulaba, Annual Plan of Operation (APO) of Rs 45 Lakhs for the year 2020-21 has been prepared. Against this APO Rs 20 Lakhs have been received from State CAMPA Fund and Rs 25 Lakhs have been demanded from Deputy Commissioner, Kullu from Green Tax Fund. The estimates of works amounting of Rs. 20 lakhs received from CAMPA Fund have been prepared and the work is in progress.

C. Transport Department:

(I) Operation of Electric Buses

The Transport Department has submitted that after successful trial of operation of electric buses on Rohtang stretch, 25 Electric Buses were procured by the Himachal Road Transport Corporation (HRTC). Further due to lean season (non-availability of Tourists), the operation of these buses has been stopped w.e.f 18.07.2019. Further, due to lock down imposed from March, 2020 onwards, these buses could not be plied during summer season. Currently these buses are plied on other routes in Kullu and Mandi Districts. Seven charging points have been provided at Manali, four at Kullu and four at Mandi for the smooth operation of electric buses.

(ii) Installation of Weigh in Motion

To comply with the direction of Hon'ble National Green Tribunal, the Weigh in Motion has already been installed by the Transport Department at its barrier at Bhang and is operational.

D. H.P. State Pollution Control Board

The Member Secretary H.P. Pollution Control Board has submitted that the Regional Office, Kullu is continuously monitoring Ambient Air Quality of Rohtang area at all the specified locations i.e. Bahang, Gulaba, Marhi and Rohtang Top (mobile station). The Ambient Air Quality monitoring data of the said locations (Except Rohtang Top) for the month of November 2020 is submitted for the kind perusal of the Hon'ble Tribunal. It is further submitted that the Monitoring of the Rohtang top was not conducted due to snowfall.

Ambient Air Quality Monitoring Data of Rohtang Area for the month of November-2020.

BDL-Below Detection Limit for No_x parameter is 9.0 ug/m³,
Detection Limit for SO₂ parameter is 4.0 ug/m³

Sr. No	Location	Date	Time	Results in ug/m ³					
				RSPM	NO _x		SO ₂		NH ₃
1.	Bahang	03.11.20	08:00AM-04:00 PM	20.06	BDL	BDL	BDL	BDL	2.93
		13.11.20	08:00AM-04:00 PM	19.69	BDL	BDL	BDL	BDL	2.66
		21.11.20	08:00AM-04:00 PM	18.86	BDL	BDL	BDL	BDL	2.45
		28.11.20	08:00AM-04:00 PM	21.97	BDL	BDL	BDL	BDL	1.41
2.	Gulaba	03.11.20	08:00AM-04:00 PM	15.17	BDL	BDL	BDL	BDL	1.95
		13.11.20	08:00AM-04:00 PM	15.34	BDL	---	BDL	---	1.16
		21.11.20	08:00AM-04:00 PM	17.42	BDL	---	BDL	---	1.55
3.	Marhi	03.11.20	10.00AM-04.00PM	9.85	BDL	---	BDL	---	1.88
		13.11.20	10.00AM-04.00PM	10.26	BDL	---	BDL	---	1.48

Vehicular Emission Checking-Cum Awareness

Camps were organized at Bahang barrier, in association with Transport Department & Police authorities on dated 03.11.2020, 12.11.2020, 21.11.2020 & 28.11.2020 regarding vehicular emission checking-cum awareness. The details of respective vehicle emission checking are as below:

Date of Inspection	No. of vehicles checked	No. of Vehicles found with PUC /meeting Emission Norms	No. of Vehicles without PUC /violating Emission Norms
03.11.2020	11	11	Nil
12.11.2020	42	42	Nil
21.11.2020	10	10	Nil
28.11.2020	38	38	Nil

Sample collection of Sewage Treatment Plant, (STP), Manali

The Regional Office PCB, Kullu is inspecting the Sewage Treatment Plant on monthly basis and also collecting samples which are being analyzed at Regional Laboratory, Sundernagar and results are within the permissible limits.

Date of collection	BOD	COD	O&G	pH	TSS	Limit
03.11.2020 (final outlet of STP)	5.0	36.0	0.0	7.94	15.0	Within Limit

6. We have considered the report. It is seen that the ropeway project has not been completed for want of requisite EC. Steps are in progress for setting up of STP at Marhi and upgradation of STP at Manali, for parking facilities, Solid Waste Management facility, Nature Park, Electric Buses. The said steps need to be expedited. We find it difficult to understand the delay in grant of electric connection to the STP at Marhi. With regard to the upgradation of STP at Manali, though it is stated that the work was likely to be completed by June, 2021, the latest status is not known. Steps for Solid Waste Management facility at Manali and other pending jobs need to be expedited. Let all the same be monitored at the level of Chief Secretary, H.P. and compliance ensured in a time bound manner. Final compliance report may be filed before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

List for further consideration on 26.10.2021.

A copy of this order be forwarded to the Chief Secretary, H.P. by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

M. Sathyanarayanan, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

June 08, 2021
Original Application No. 389/2018
AVT