

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

**Original Application No. 237 (T_{HC}) of 2013
(M.A. No. 325 of 2016)**

And

Original Application No. 492 of 2014

IN THE MATTER OF:-

Court on its own Motion Vs. State of Himachal Pradesh & Ors.

And

Abhimanyu Rathor Vs. State of H.P. & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER

Original Application No. 237 (T_{HC}) of 2013

Present: **Applicant**
Respondent No. 1,2,4 & 6: Mr. Suryanarayan Singh, Sr.Addl.AG,State of HP
Respondent No. 7 : Ms. Panchajanya Batra Singh, Adv. for MoEF
Mr. Pradeep Mishra, Adv. Local Commissioner
Mr. B. V. Niren, Adv. of PNG and Ministry of Heavy Industry Mr. Sumit Kishore, Adv. for PNGRB
Mr. Sumit Kishore, Adv. for PNGRB
Ms. Priya Suri and Mr. Ranjan Dueby, Advs. for IOCL
Mr. Ajit Pudussery, Ms. Shruti Sarma Hazarika, Mr. Praveen Kumar and Ms. Vandana Mishra, Advs. for GAIL Gas

Original Application No. 492 of 2014

Present: **Applicant:**
Respondent Nos 1,3,4&5 : Mr. Suryanaraya Singh, Sr.Addl. AG, State of HP
Ms. Panchajanya Batra Singh, Adv. for MoEF

Date and Remarks	Orders of the Tribunal
Item No. 01 & 02 August 19, 2016 A	Learned Sr. Addl. Advocate General appearing for State of Himachal Pradesh submits that that State Government has already filed the status report and the same is on record. We have perused the report. The report ex-facia suffers from the infirmities which are not acceptable. The site selection both for dumping of municipal solid waste and for the plant as well as for STP is violative of the Municipal Solid Waste Rules, 2000 and even of the recent Solid Waste Management Rules, 2016. It is in flagrant violation of the provision of the

	<p>Item No. 01 & 02</p> <p>August 19, 2016</p> <p>A</p>	<p>Environment (Protection) Act, 1986 also. We cannot understand as to how any Department of the State can select site for dumping/setting up plant for municipal solid waste and STP in the river bed. The sites are not even one meter away from the river stream. In fact they are almost touching the water of the river. Learned counsel appearing for the State submits that he would take instructions and examine if there are other sites available for these two plants. We make it clear that the two sites presently chosen by the State of Himachal Pradesh and its Authorities cannot be accepted as they will cause environmental hazards/serious pollution of river Beas. Let the Counsel take instructions and a responsible Officer from the State of Himachal Pradesh shall be present before the Tribunal.</p> <p>The learned Local Commissioners appointed by the Tribunal have also filed their reports. The State Government has responded to the status report. Various deficiencies have been pointed by the learned Local Commissioners. Let the Government take all remedial measures in relation to deficiencies and shortcomings pointed out in the report and submit compliance thereof to the Tribunal before the next date of hearing.</p> <p>The learned Local Commissioners also bring to the notice of the Tribunal and in fact has also been recorded in their report that the same chaos that presently exists in Manali would also exist in the areas at Rohtang Pass and beyond particularly Lahaul & Spiti if appropriate regulatory steps are not taken and precautionary principle is not invoked in the State. According to them, tunnel at</p>
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	<p>Item No. 01 & 02</p> <p>August 19, 2016</p> <p>A</p>	<p>Dundhi from Solang to Lahaul - Spiti Valley is scheduled to be commissioned in 2017. A lot of unregulated and haphazard shops and buildings will be built, adjacent to the road, resulting in traffic congestion, environmental degradation and possibility of natural calamities like the one that happened in the State of Uttarakhand in 2013 cannot be ruled out. It is a fact, which is not even disputed by the State of Himachal Pradesh that the Parwanoo to Shimla road which is being widened into 2 lane dual carriage, the project of NHAI is in progress and the constructions along the road side has increased by the day and the present road is primarily being used for parking purposes. Be that as it may, we direct State Government to conduct a survey and submit a report to the Tribunal as to the carrying capacity of areas from Vashishtha onwards and beyond the Rohtang Pass as well. They will also submit as to what regulatory steps can be taken to prevent construction on the roads or immediately adjacent to the road. Of- course choice of the State Government to locate proper site and make proper markets along the Highways at different places is always there. The report should be filed before the next date of hearing positively.</p> <p>In the meanwhile, we prohibit any construction either of building or shops, within 20 meters from the edge of the road. Of course Government would be at liberty to plan and regulate construction of small markets away from the edge of the road on the Highways for small complexes.</p> <p>We further prohibit any construction being raised</p>
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	<p>Item No. 01 & 02</p> <p>August 19, 2016</p> <p>A</p>	<p>on River Beas and any of its tributaries, rivers within 25 meters from the High Flood Line or 50 meters from the edge of the river whichever is higher.</p> <p>Again the State Government would be at liberty to put up a complete regulatory plan depending upon the carrying capacity while completely avoiding any damage or loss to the ecology and environment in these areas particularly loss/damage to the water bodies.</p> <p>Learned counsel appearing for the State of Himachal Pradesh would take clear instructions in relation to the status of introduction of CNG and Electric Buses in Rohtang Pass as well as in the other areas as the State Government may deem appropriate.</p> <p>We direct SASE, Chandigarh to submit a report within two weeks from today positively and also direct MoEF to process the grant of Environmental Clearance for Rope Way project.</p> <p>It is stated that preparation of EIA report has also been assigned to RITES India who are expected to finalise the same and submit to MoEF. Let that be done by RITES without any unnecessary delay. If the Application is submitted to MoEF the same should be dealt with expeditiously.</p> <p>Learned counsel appearing for the MoEF as well as the State of Himachal Pradesh pray for further time to seek instructions.</p> <p>This order would apply to all the Gram Panchayats and to all the Municipal limits as well.</p> <p>We further direct that the amounts collected under the orders of the Tribunal at Manali would be deposited</p>
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	<p>Item No. 01 & 02</p> <p>August 19, 2016</p> <p>A</p>	<p>upon collection with Manali Tourism Development Council which shall carry out all the directions of the Tribunal and other programmes. This amount will be spent only to take preventive measures or regulatory measures under the judgement to maintain ecology and environment of that area. However, it will also prepare an action plan and file a monthly report before the Tribunal and obtain orders from the Tribunal.</p> <p>List this matter for directions on 29th September, 2016.</p> <p>.....,CP (Swatanter Kumar)</p> <p>.....,JM (M.S. Nambiar)</p> <p>.....,JM (Raghuvendra S. Rathore)</p> <p>.....,EM (Prof. A.R. Yousuf)</p> <p>.....,EM (Bikram Singh Sajwan)</p>
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