

**BEFORE THE PRINCIPAL BENCH  
NATIONAL GREEN TRIBUNAL  
NEW DELHI  
CIRCUIT BENCH AT SHIMLA**

**Application No. 237(T<sub>HC</sub>)/2013  
CWPII No. 15 of 2010  
M.A. Nos. 389/2014 & 263/2014**

**Court on its own Motion Vs. State of HP &Ors.**

**CORAM :** HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON  
HON'BLE MR. JUSTICE (Dr.) P. JYOTHIMANI, JUDICIAL MEMBER  
HON'BLE DR. D.K. AGRAWAL, EXPERT MEMBER  
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER

**Present:**

<b>Applicants:</b>		Mr. G.D. Verma sr. Adv. With Mr. B.C. Sharma and Mr. Dibender Ghosh, Adv.
<b>State of HP:</b>		Mr. Anup Rattan, AAG and Mr. Vivek Singh Attri, DAG
<b>Respondent No. 2:</b>		Mr. T.S. Chauhan, Advocate
<b>Respondent No. 6:</b>		Mr. Shivank Singh Panta, Adv. Mr. Ashok Sharma ASGI for UOI

Date and Remarks	Orders of the Tribunal
<p><b>Item No. 2 November 20, 2014</b></p>	<p>The Hon'ble High Court of Himachal Pradesh at Shimla initially was dealing with these matters relating to one of the most eco-sensitive area of the Himachal Pradesh i.e. Rohtang Pass. These matters came to be transferred to the Tribunal and were taken up for hearing on 29.07.2013 on which date certain directions were issued and an Expert Committee was constituted to answer the six questions that had been formulated in the said order. It is related to ecology and environmental maintenance of this eco-sensitive area besides the fundamental right of the citizens to have a clean and decent environment.</p> <p>The report was not submitted for some time and the matter had to be adjourned. Report was submitted as on 07-10-2013. After hearing the learned Counsel appearing for the parties on different occasions and considering the other interim directions that were passed by the Tribunal, vide a detailed judgment dated 06.02.2014. This Tribunal</p>

has issued comprehensive directions for compliance by various authorities. This was an order based upon studies conducted by various bodies all over the country and the recommendations that were made from time to time. The report relied upon by this tribunal while passing the above order primarily relate to right to wholesome and decent environment, forests, de-forestation and its impact on environment and remedies, pollution content and remedies, scientific aspects of development and protection of environment, cleanliness and public amenities and in conclusion the order contained specific direction for compliance by various authorities.

As recorded in para-41 of the said order, a copy of the judgment was directed to be given to the Chief Secretary and the concerned Secretaries of the State Government for appropriate action.

It was brought to our notice that no effective steps were being taken by various bodies of the State including the Pollution Control Board which persuaded us to constitute an independent Committee to inspect the site in question and submit a report on various aspects in relation to implementation of the directions contained in our order dated 6<sup>th</sup> February, 2014. Thus, vide order dated 13.08.2014, we constituted an independent Committee headed by Mr. R.S. Sood Sr. Advocate along with Mr. G.D. Verma, Sr. Adv. who we must with great appreciation notice that agreed to inspect and submit the report without claiming any fees. They conducted a detailed survey of the area on 28.09.2014 and again visited by surprise inspection on 7<sup>th</sup> to 9<sup>th</sup> November, 2014. Besides Mr. Sood and Mr. G.D. Verma, learned Sr. Advocates, two other advocates had

also been appointed as court commissioners.

At the very threshold, we must record our deep sense of the bench apprehension for the work done by the panel of the Sr. Advocates and other Advocates. They have substantially contributed to bring before the Tribunal the steps that are required to be taken for protecting the environmental and ecological interests of the area in question.

We are pained to notice that the report submitted by the learned court commissioners does not speak well of the functioning of the State with regard to implementation of directions contained in our order. They have pointed out various deficiencies. They have not only pointed deficiencies that have occurred in the implementation of the direction of Tribunal but even highlighted the aspects where the actions have not even been commenced much less to say that they ought to have been concluded in the long period of eight months now.

At this stage, we may notice that the Tribunal had called for a chamber meeting of the senior most officials of the State today in view of the report submitted to the Tribunal. The Chief Secretary of State of Himachal Pradesh, Secretary Home, Secretary, Forest and Environment, Secretary Tourism, Director General of Police of the State, Chairman and Member Secretary of HP Pollution Control Board and other senior officers of the State of Himachal Pradesh were present along with the Additional Advocate General of the State. They were made aware of the various deficiencies and inactions on the part of the state as brought out by the court commissioners in their Report, and thus it was brought to the notice of the highest hierarchy of the

State.

Even at the risk of repetition, we must notice that as per the scientific studies carried out so far and which were placed on record and the applications filed from time to time that had persuaded the Tribunal to pass order dated 6<sup>th</sup> February 2014 indicate that the glacier in the region is reducing at rapid speed and in the coming period of 20 to 25 years, it may even vanish. This would create serious repercussions on ecology and the environment of the entire state. The principal causes of pollution are carbon emission resulting from the motor vehicles, indirect effect of crop burning and the municipal waste being thrown anywhere and in any place of the eco-sensitive area. Increase in tourism is also contributing to the pollution.

We must also notice that the destruction of the forest in the past is one of the main cause which has resulted in the present scenario. Thus, the directions were even issued with regard to the reforestation and for giving due protection to the forest area.

We must also notice that the Chief Secretary and all officials present on behalf of the State before the Tribunal have clearly accepted that the directions contained in the order will be scrupulously implemented. In addition, the learned Advocate General had made statement before the Tribunal that the directions would be carried out in true spirit and substance.

We have no reason to doubt the genuine interest of the State to protect this area and comply with the orders of the Tribunal which are passed after taking into consideration various experts reports, data, and considered opinions of the expert members comprised in the bench.

At the oral request of the Counsel appearing for the parties, the Central Government through the Ministry of Environment & Forests is impleaded as party respondent in this case. Mr. Ashok Sharma, ASG accepts notice on behalf of the MoEF. Keeping in view the report that has been filed before us today, we pass the following orders for immediate compliances:

1. It has been brought to our notice that the RTO posted at Manali has not taken any steps to implement the orders with regard to prevention and control of pollution, checking of vehicles, providing of space for instruments for checking of vehicular pollution and also in compliance to other directions issued by the Tribunal. In the light of this, we direct the Chief Secretary of the State to take appropriate action against the said RTO immediately in accordance with law. It would be appreciable if the said RTO is transferred and a person who is interested in protecting the environment and ecology of the area be posted there.

2. In compliance with our previous directions, immediately a proper room on the left side of the road leading from Manali to Rohtang Pass shall be provided where technicians will be posted who are capable and can check the vehicular pollution as well as the certificates of the vehicles as any vehicles above 10 years old would not be permitted to ply on the said road. This space should be provided within two weeks from today.

3. Another place on that road would be provided near Gulaba, as the Deputy Commissioner, Kullu would decides where the other approach road to Rohtang Pass joins with similar infrastructure and technically expert persons to check vehicular pollution, weight and age of the vehicles.

For providing the above said spots, no authority will permit cutting of any trees which will apply also for providing parking of any vehicles leading to Rohtang Pass and to regulate the vehicles at Manali or any other station in between the Palchan and Gulaba.

We may clarify that the proposed tunnel for Rohtang pass will have only effect of reducing impact of the vehicles which have to ply beyond Rohtang Pass. It is obvious that with the passage of time tourism to Rohtang Pass is likely to increase and the tunnel would not reduce the tourists vehicular impact upon Rohtang Pass.

4. All the stalls on the road side and the road leading to Rohtang Pass except at Marhi as per our earlier direction of the Tribunal shall be shut forthwith.

5. The eco-friendly market at Marhi should be built up by the State even out of the existing market within one month from today. This work will be supervised by the Deputy Commissioner of the area. However, we make it clear that the Marhi market would not be demolished as there is stated to be an order of interim protection granted to them by the Hon'ble Supreme Court of India. While entirely complying with the order of the Hon'ble Supreme Court, steps for making the market environment friendly would be taken. This work should be super-wised by the Deputy Commissioner of the area directly under the supervision of the Secretary concerned and the Chief Secretary as the case may be.

6. The Central Government is hereby directed to expedite the decision on the request of the State of Himachal Pradesh for diversion of the forest land for other purpose at Marhi to enable the State Government to comply with the directions

of the Tribunal fully and finally.

7. We hereby direct the Secretary, Home and the DGP of State of Himachal Pradesh to post adequate number of police force in that district to ensure absolute compliance of the order of the Tribunal immediately.

8. The State Government shall immediately take steps to ensure plying of CNG Buses of the appropriate size from Vashisht to Rohtang and back which will be meant only for the purpose of tourism and no tourist or other private vehicle will be permitted to go to Rohtang in terms of our previous directions. This condition should be enforced without default now, since there has been consistent non-compliance and no effective steps have been taken by the State in this regard.

9. It has been brought to our notice by the Committee that still there is no proper collection of municipal waste which is resulting in un-cleanliness of the area. The public amenities are inadequate. In any case, environmental friendly toilets have not been installed at Rohtang as well as at Gulaba and Marhi. Let this be done without fail. All steps in that regard shall be taken positively by 31.12.2014.

10. It is worthwhile noticing that even matter relating to the management of horse dung has not been regulated by the state despite eight months have gone by. We direct the Secretary, Home, Secretary, Environment, Secretary, Tourism and Deputy Commissioner, Kullu to ensure that a single lane traffic is maintained for horses and due process is provided for instant cleanliness of horse dung and its disposal. We make it clear that the horse dung will not be accumulated or thrown in any part of the eco-sensitive area of Rohtang Pass. It should be transported to Manali or any

other place where there is proper dumping site and by composting the same can be converted into manure which shall be used for commercial and agricultural purpose.

11. The Government shall place before the Tribunal the statement of the funds collected and utilization thereof.

12. We request the Chief Secretary and all other concerned authorities of the State to immediately take a decision as to the providing of a rope way from Vashisht to Rohtang Pass. The State decision shall be backed by the report of the expert/s. This Tribunal primarily feels and is of the opinion that with modern technical know-how, the rope way can be provided especially on a public private partnership mode.

13. The Committee recommendation, which we accept, regarding serious efforts on the part of the State to educate people towards the need of maintenance of environment with the principle of sustainable development, need to be implemented at the level of schools, panchayats and even at the official level. The misgivings that it will affect the livelihood of the people should be dispelled by appropriate teachings that the sustainable economic development is bound to bring prosperity in the area and would provide employment to the people.

14. We express our complete dis-satisfaction over the manner in which the State Government has taken up the steps for re-forestation and providing of nursery in the area. In view of the assurance given to us by the senior officials of the state, we would not comment any further but would expect that nurseries are developed immediately and steps are taken for plantation of the trees in the areas at Marhi etc.



15. The proposal given at page 71 of the report should be considered objectively by the State. The State shall exhibit boards and the District Magistrate and DFOs shall ensure that there is no littering in the entire area and no municipal waste is thrown. People throwing waste of any kind in the area should be fined in accordance with law and if necessary, the repeated violators should be brought before the Tribunal to be dealt with in accordance with law.

16. All encroachments from Vashisht en-route to Gulaba should be removed immediately by the State. The State shall submit a composite report to the Tribunal by the next date of hearing in relation to the registration, maintenance and revenue in relation to the snow scooters.

17. There shall be a common check post of all the departments together at Vashisht and Gulaba and adequate public amenities should be provided and such amenities would be environment friendly

18. We hope all the Secretaries present in the meeting today including the Chief Secretary and the DGP shall take all steps necessary for effective and expeditious implementation of the directions of the Tribunal contained in this order and the order dated 6<sup>th</sup> February 2014. We hereby constitute a Principal Supervisory Committee consisting of the Chief Secretary, Secretary Home, Secretary Environment, Secretary Forest, Secretary Transport, Secretary Tourism and DGP of Himachal Pradesh for effective implementations of the directions.

19. We further grant liberty to the State of Himachal Pradesh to approach the Tribunal if on any projects there is financial limitation and it requires aid from the Central Government.

These directions shall be read *mutatis mutandi* to the directions issued vide order dated 06.02.2014.

20. The State Government is directed to provide a complete and comprehensive plan of prevention and control of pollution of environment and damage to ecology owing to tourism in the area leading from Bhuntar to Manikaran.

21. We also direct the Deputy Commissioner, Kullu to submit a report directly to the Tribunal as to the dumping site near Mohal, where municipal waste of Kullu is being dumped, as stated in the report of the court commissioners with status and likelihood of pollution of river Beas as a result of such act particularly during the rainy season.

The Respondent and the officials shall provide all the records relating to the above directions before the tribunal by the next date of hearing.

Mr. Thakur, Advocate would be paid a sum of Rs. 35,000/- by the Government. It is a tentative fee as we are permitting the Committee to visit the site in question any time before the next date of hearing.

Stand over to 8<sup>th</sup> January, 2015.

.....,CP  
(Swatanter Kumar)

.....,JM  
(Dr. P. Jyothimani)

.....,EM  
(Dr. D.K. Agrawal)

.....,EM  
(Prof. A.R. Yousuf)