

Regd.
Court Matter

**HP STATE POLLUTION CONTROL BOARD,
BELOW BCS, PHASE-III, NEW SHIMLA**

No. PCB/OA No. 504/2019/-

19063

Dated:- 2-9-19

From: The Member Secretary

To

✓
The Registrar General,
Hon'ble National Green Tribunal'
Faridkot House, Copernicus Marg, Near India Gate, New Delhi ,
Delhi 110001.

**Subject:- Original Application No. 504/2019 titled Sh. Janesh Mahajan V/s State of HP
&ors. pending before the Hon'ble NGT.**

Sir,

This has reference to the orders dated 31-05-2019 passed by Hon'ble NGT, Delhi in the afore-cited matter wherein following directions has been passed:-

".....Let the Himachal Pradesh State PCB, SDM, Dalhousie, DFO, Dalhousie and Dalhousie Municipal Corporation furnish a factual and action taken report. The State PCB will be the nodal agency for coordination and compliance within one month by email at judicialngt@gmail.com."

In this connection, in compliance to afore-cited directions and in continuation to this office previous letter No. No. PCB/OA No. 504/2019/-13728 dated 29-6-2019 wherein a preliminary report was submitted, please find enclosed herewith compliance affidavit for placing on record final factual report of the committee for kind perusal which may also be placed on record in the matter please.

(Encl. as above)

✓
Aditya Negi.(IAS)
Member Secretary
HPSPCB, Shimla-9,
Tel No. 0177-2673766
f

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH AT NEW DELHI**

Original Application No. 504/2019

In the matter of:

Sh. Janesh Mahajan

.....Applicant

Versus

State of Himachal Pradesh & ors.

.....Respondent

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Place:-Shimla

Dated 02-09-2019

Respondent HPSPCB

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH AT NEW DELHI

Original Application No. 504/2019

In the matter of:

Sh. Janesh Mahajan

.....Applicant

Versus

State of Himachal Pradesh

.....Respondent

AFFIDAVIT FOR PLACING ON RECORD FINAL
FACTUAL REPORT OF THE COMMITTEE IN
COMPLIANCE TO ORDER DATED 31-05-2019.

MAY IT PLEASE YOUR LORDSHIPS:-

I, Aditya Negi, (IAS) son of Sh. S.K. Negi, aged 33 years., presently working as Member Secretary, H.P. State Pollution Control Board, Him Parivesh, Phase-III, BCS, New Shimla, Himachal Pradesh, do hereby solemnly declare and affirm on oath as under: -

1. That the afore-cited Original Application is pending adjudication and was last listed on 31-05-2019 wherein Hon'ble NGT was pleased to pass following directions :-

".....Let the Himachal Pradesh State PCB, SDM, Dalhousie, DFO, Dalhousie and Dalhousie Municipal Corporation furnish a factual and action taken report. The State PCB will be the nodal agency for coordination and compliance within one month by email at judicialngt@gmail.com."

2. That in compliance to afore-cited directions, it is submitted that the site in question was inspected on 24-06-2019 by the Joint Committee and a preliminary report was filed on affidavit dated 29-6-2019. The Joint Committee was of the view that proper demarcation of the land with the help of the concerned Revenue Authorities was required on spot to set forth the boundary with accuracy in order to ascertain the area of actual ownership of the land of the respondent where construction has to be executed. Hence, the committee requested for more


Member Secretary,
HP State Pollution Control Board
Shimla

time to furnish factual and detailed report with the assistance of concerned stake holders Departments.

3. That thereafter, recently the Joint Committee comprising of DFO Dalhousie, Tehsildar Dalhousie, Environmental Engineer, Chamba, Executive Officer, Municipal Council Dalhousie, Junior Engineer Town & Country Planning and Tourism Information Officer again inspected the site on 28-8-2019. As per the Joint Report received from the Committee, the Respondent No. 4 and 5 have started the extraction and land development work at the site including construction of two RCC walls. The revenue authorities reported that during inspection/demarcation at site, no encroachment or illegal construction as alleged was observed on Govt. land. The Town & Country Planning Authorities reported that the proposed Hotel has permission for development/construction of land and at present the site in question is vacant and no construction work is being carried out. Also as per Joint Report the proposed hotel has not obtained consent of the HP State Pollution Control Board, hence a notice had already been issued by the Board to the respondent unit on 27-6-2019 to stop its activity without obtaining the prior consent of the Board. The copy of detailed Joint Report is annexed as **Annexure R-1/A**.
4. That the Joint Report of the Committee annexed as **Annexure R-1/A** may kindly be taken on record for kind perusal of the Hon'ble Tribunal.

That I, the above named deponent do hereby solemnly affirm and declare, that the above contents of paras 1-4 of this affidavit are correct to best of my knowledge based on information derived from official records, no part of the same is wrong and nothing material has been concealed therefrom.

Verified at Shimla on 2nd day of September, 2019.


DEPONENT
Member Secretary,
HP State Pollution Control Board,
Shimla

-3-



H.P.STATE POLLUTION CONTROL BOARD
Office: VPO Rajpura, Tehsil & Distt-Chamba, Pin-176310 (H.P.)
Phone: 01899-220326

Website : <http://www.hppcb.nic.in> e-mail : pcbchamba@gmail.com

No:-HPSPCB/ RO/CBA/NGT File/ 2019-

579

Dated:-

31/08/2019

From:-Environmental Engineer

To

✓ The Member Secretary,
HP State Pollution Control Board.
Him Parivesh Bhawan, Phase-III,
Shimla-17009(HP)

Subject: - Regarding OA No. 504/2019 titled as Janesh Mahajan v/s State of HP & Ors. pending before the Hon'ble NGT at Delhi.

Sir/madam,

In continuation to this office vide letter no. 229 dated 27.06.2019 on the subject cited above. In this context, once again joint inspection has been conducted by the committee constituted in O.A No. 504/2019 titled as Janesh Mahajan v/s State of HP & Ors. pending before the Hon'ble NGT at Delhi on dated 28.08.2019 and submitted the copy of the joint inspection report with sporting documents (copy enclosed).

This is for your information and further necessary action at your end please.

Encl: - As above

Er. Brij Bhushan
Environmental Engineer
HPSPCB CHAMBA

REPORT OF THE COMMITTEE DATED 28.08.2019 IN O.A NO. 504/2019 TITLED AS "JANESH MAHAJAN V/S STATE OF HP.

Respected Excellencies,

"Jai Hind"

In compliance to orders passed by the Hon'ble National Green Tribunal on 31.03.2019 in O.A No. 504/2019 titled as "Janesh Mahajan V/s State of HP", the committee comprising of DFO Dalhousie, Tehsildar Dalhousie, Environmental Engineer and, Pollution Control Board, Regional Office Chamba Executive Officer, Municipal Council, Dalhousie, Junior Engineer Town and country planning and Tourism Information Officer visited the site/spot on 28.08.2019 in the afternoon, which is located under the jurisdiction of Municipal Council, Dalhousie and is governed by the HP Municipal Act, 1994 and Town and Country Planning, Act 1997 and rules therein. The SDM Dalhousie could not make his presence due to sudden demise of his father. Besides this, it is pertinent to mention here that the aforesaid site of construction of hotel does not fall under the jurisdiction of Cantonment area but is within the jurisdictional limits of MC Dalhousie. Further, it is brought to your kind notice that the applicant has not furnished/supplied a set of papers to DFO Dalhousie, SDM Dalhousie, Dalhousie Municipal Corporation and HP State Pollution Control Board of the application as directed in its order by Hon'ble NGT.

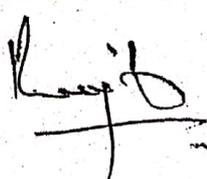
Presence of parties:-

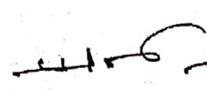
At the time of inspection, following officials/ officers were present.

| | | |
|----|--------------------|--|
| 1. | Sh. Rakesh Katoch | DFO Dalhousie |
| 2. | Sh. Rajesh Kumar | Tehsildar, Dalhousie |
| 3. | Sh. Brij Bushan | EE, Regional Office, HP State Pollution Control Board |
| 4. | Smt. Rakhi Kaushal | Executive Officer (EO), Municipal Council Dalhousie (MC Dalhousie) |
| 5. | Sh. Raj Kumar | JE, Town & Country Planning |
| 6. | Sh. Surjit Singh | Tourism Information Officer |

Identification and physical inspection of the spot:-

The spot, comprising Khatoni No. 115/181, Khasra No. 839, 850, 854 and 859, kitta 18 total measuring 00-32-04 hectare at Mohal Moti Tibba, Tehsil Dalhousie was identified with the help of the revenue record made available on







the spot by the Tehsildar, Dalhousie. The detailed report of the Tehsildar is humbly submitted herewith, (as **Annexure-I**) for perusal of the respected Excellencies.

The physical inspection on the spot by the committee reveals that the respondent is continuing with excavation and development/construction activities on the site which includes construction of two RCC retaining wall of about 5 mtr in height on the hill side where vertical cutting of height varying from approx/- 2 mtr to 10.5 mtr at different points had been carried out by the respondent. The vertical cutting/excavation executed on the proposed site, may result in uprooting of few standing green trees of species Deodar and others in near future and require remedial measures. Only two temporary sheds of size 10x12 feet with CGI sheets had been erected on the corner of the site. No other structure so far had been constructed except as stated above. Further, the committee was apprised by the Pollution Control Board authorities that Regional Office of HPSPCB, Chamba that notice had already been issued to the respondent on 27.06.2019 (attached as **Annexure-II**) and also prior consent/NOC of the Pollution Control Board for its establishment as required under the law, had not been obtained so far.

The report had also been taken from Assistant Town Planner Sub-Divisional Town & Country Planning Office Chamba, HP which is attached as (**Annexure-III**) for perusal of the respected Excellencies.

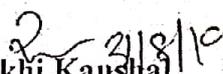
Photographs of the spot:

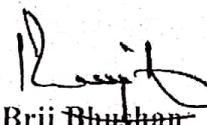
Photographs clicked on the spot are attached herewith (as **Annexure-IV**)

The inspection report is submitted as desired, please

With humble submission

Yours faithfully


Rakhi Kaushal
(EO, MC Dalhousie)


Brij Bhushan
(EE, HPSPCB)


Rakesh Katoch
(DFO Dalhousie) 31.08.2019

रिपोर्ट मौका

माननीय उपमण्डलाधिकारी (ना.) डलहौजी के निर्देशानुसार भूमि खाता खतौनी नं. 115/181 खसरा नम्बर 839 ता 850, व 854 ता 859 किता 18 रकबा तादादी 00-32-04 हेक्टेयर वाक्या मुहाल मोती टिब्बा तहसील डलहौजी की मौका छानबीन दिनांक 28-8-2019 को की गयी। उपरोक्त निश्चित तारीख को निर्धारित समय पर, पटवारी हल्का डलहौजी व कानूनगो कार्यालय सहित मौका हाजरीन वन मण्डल अधिकारी श्री राकेश कटोच, पर्यावरण अभियन्ता, पर्यावरण नियन्त्रण बोर्ड चम्बा श्री बृज भूषण, कार्यकारी अधिकारी नगर पालिका डलहौजी श्रीमति राखी कौशल, कनिष्ठ अभियन्ता नगर नियोजन विभाग चम्बा श्री राज कुमार, पर्यटन सूचना अधिकारी श्री सुरजीत सिंह, व प्रतिवादी श्रीमति सुनीता गुप्ता पत्नि श्री शान्त सागर गुप्ता की मौजूदगी में मौका छानबीन की गई जिसमें पाया गया :-

1. यह कि राजस्व अभिलेख अनुसार भूमि खाता खतौनी नं. 115/181 खसरा नम्बर 839 ता 850, व 854 ता 859-किता 18 रकबा तादादी 00-32-04 हेक्टेयर वाक्या मुहाल मोती टिब्बा तहसील डलहौजी, के मालिकों सर्वश्री रणवीर सिंह, कुलबीर सिंह, दलबीर सिंह व जसवीर सिंह पुत्र सम्पूर्ण सिंह पुत्र शमशेर सिंह स्थानीय वासी ने अपनी सालम उपरोक्त भूमि को बरूये ईन्तकाल नम्बर 631, दिनांक 26-04-2017 व 638 दिनांक 05-07-2017 बहक श्रीमति श्रीमति सुनीता गुप्ता पत्नि श्री शान्त सागर गुप्ता व श्रीमति सुनीता गुप्ता पत्नि श्री अशवनी कुमार समानभाग 1/2 भाग व अमित गुप्ता पुत्र श्री शान्त सागर गुप्ता 1/2 भाग निवासी जम्मू तवी, जिला जम्मू, जम्मू एवं कश्मीर को 99 साल दिनांक 28-06-2017 से 27-06-2116 तक लीज पर दे रखा है।

TEHSILDAR
DALHOUSIE (H.P.)

-70

2. यह कि उपरोक्त भूमि पर पहले मौजूद भवन को उखाड़ दिया गया है।
3. यह कि उपरोक्त भूमि पर भी खुदाई की गई है तथा आर.सी.सी. डंगा लगाया गया है।
4. यह कि मौका निरीक्षण के समय किसी सरकारी भूमि पर कोई अवैध अतिक्रमण या निर्माण नहीं किया गया है।
5. यह कि उपरोक्त भूमि पर मौका निरीक्षण में दो टैम्पेरी 10 X 12 फुट शैड बने पाये गये हैं। इसके अतिरिक्त कोई भवन निर्माण नहीं पाया गया।
6. यह कि इस समय किसी वन भूमि (निजी अथवा सरकारी) पर कोई अवैध अतिक्रमण या निर्माण नहीं किया गया है।
7. यह कि उपरोक्त भूमि नगर पालिका डलहौजी के अधिकार क्षेत्र में स्थित है।
8. यह कि उपरोक्त भूमि किसी छाबनी क्षेत्र में स्थित नहीं है।


तहसीलदार,
डलहौजी, जिला चम्बा, हि.प्र.।

H.P. STATE POLLUTION CONTROL BOARD

Office: VPO Rajpura, Tehsil & Distt-Chamba, Pin-176310 (H.P.)

Phone: 01899-237426

Website : <http://www.hppcb.nic.in> e-mail : pcbchamba@gmail.com

NO : H.P.C.B./20/C.B.A./O.A.M.584/2019-230-34 Dated : 27/06/2019

To

Sh. Amit Gupta and Mrs. Sunita Gupta,
N.T. Mall Road, Moti-Tibba, Dalhousie,
District Chamba (HP).

Subject: Regarding O.A No. 504/2019 titled as "Janesh Mahajan V/s State of HP" pending before the Hon'ble NGT at Delhi.

In reference to subject cited above and inspection of your proposed site for hotel to be established on Khasra No. 839-850, 854-859, revenue mohal Moti-Tibba, Dalhousie, District Chamba (HP) by undersigned along with SDM, Dalhousie, DFO Dalhousie and Executive Officer, Municipal Council, Dalhousie on 24.06.2019, you are asked to stop any land development work/excavation activities at this site as you have started these activities without obtaining prior Consent to Establish under Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution Act, 1981. Also get this land in question demarcated from revenue officers/officials along with provision of flags (Burji) at boundaries for proper identification of this site.

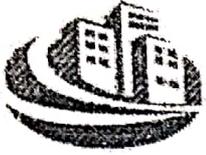
(Er. Brij Bhushan)
Environmental Engineer

Copy forwarded to:

1. The Member Secretary, HP State Pollution Control Board, Shimla for information please.
2. The Sub Divisional Officer, Dalhousie for information and necessary action please.
3. The Assistant Town Planner, Sub Divisional Town & Country Planning Office, Chamba, District Chamba (HP) along with request to report the site of this proposed hotel and report whether the land development work/excavation activities are being carried out in accordance with the plan approved by your office or not. Also in future, copy of sanctioned letter for approved plan for any commercial building specifically tourism industry/industrial unit may also be given to this State Board/office.
4. The Executive Officer, Municipal Committee, Dalhousie along with request to ensure that no constructional/ land development work/excavation activities are carried out at this site till the Consent to Establish is granted by this State Board in favour of this proposed hotel.

(Er. Brij Bhushan)
Environmental Engineer

-9-



Department of Town & Country Planning
Government of Himachal Pradesh

No. SDTP(C) *Consent Case* UAC/Dal/2015-
To

479

Dated: 30-8-2019

✓
The Environmental Engineer,
H.P. State Pollution Control Board Office,
Chamba at Rajpura
Tehsil & Distt., Chamba. H.P.

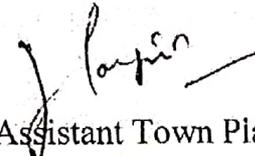
Subject:- Site inspection report in the matter of OA No. 504/2019 titled as Janesh Mahajan v/s State of H.P. & others.

Sir,

Please find enclosed herewith site inspection report in the matter of OA No. 504/2019 titled as Janesh Mahajan v/s State of H.P. & others for kind information and further necessary action please.

Encl:- As above.

Yours Faithfully,


Assistant Town Planner,
Sub-Divisional Town &
Country Planning Office,
Chamba, H.P.
Ph. No. 01899-224775

INSPECTION REPORT

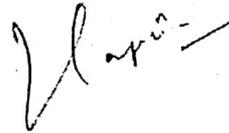
Subject:- Site inspection report in the matter of OA No. 504/2019 titled as Janesh Mahajan v/s State of H.P. & others.

Sir,

In reference to your office letter no. HPSPCB/RO/CBA/NGT File/2019-510-16 dated 28.8.2019, The site in question has been jointly inspected on 28.8.2019 in presence of Tehsildar Dalhousie, DFO Dalhousie and Executive Officer, MC Dalhousie, representative of DTDO, Environmental Engineer, HPSPCB, J.E, HPSPCB and J.E. Town & Country Planning.

As per the report of field staff, it is found at site that the site development/retaining wall is being carrying out and same is in progress. At present the site in question is vacant and no construction work is being carried out. The temporary shed with CGI sheet has been erected at the corner of the plot.

Submitted please.



Assistant Town Planner,
Sub-Divisional Town &
Country Planning Office,
Chamba, H.P.
Ph. No. 01899-224775



02201801293



Sr No 5483

**Department of Town and Country Planning
Government of Himachal Pradesh**

Permission for Development / Construction of building

No. : 02201801293

Dated : 04/Apr/2019

To

Sh./Smt./M/s **Mr. Amit Gupta** C/o : S/o Shant Sagar Gupta
Mrs. Sunita Gupta C/o : W/o Shant Sagar Gupta
Mrs. Sunita Gupta C/o : W/o Ashwani Kumar Gupta

N.T. Mall Road Mohal Moti-tibba Dalhousie Chamba, , N.t. Mall Road, Dalhousie, Chamba, Himachal Pradesh

Subject :- Permission for Development / Construction of building.

You are hereby granted permission under **Under Section 31** of the Himachal Pradesh Town and Country Planning Act, 1977 (Act No. 12 of 1977) on Khasra no. **839-850, 854-859** Revenue Mohal **Moti-Tibba** situated at village **Moti-Tibba** to carry out the development/ sub-division of land/ construction of building as mentioned in your Application under

reference, subject to the following conditions, namely:-

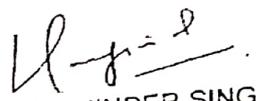
1. Building operation shall be carried out strictly in accordance with the approved building plan.
2. Front, side rear set back should be left as per approved plan
3. No tree should be cut without the prior permission from the Competent Authority
4. The date of commencement of development shall be intimated to this office.
5. The no objection certificate at plinth level shall be obtained from this office. Otherwise NOC for service connection shall not be issued.
6. Minimum permissible distance of construction from the circumference of a tree/boundary of forest shall be 2.00m. & 5.00m. respectively.
7. Building shall not be put to use prior to the issue of completion certificate by the Competent Authority.
8. The height of parking floor shall be as per approved plan.
9. The height of sloping roof shall be as per approved plan.
10. Submission of Structural Stability Certificate of the building at the time of its completion shall be mandatory.
11. Maximum hill cut of 3.50m. height shall be permissible.
12. The construction of rain harvesting tank is mandatory.
13. The safety norms of H.P.S.E.B. may be followed where HT/LT lines are crossing over the plot.
14. The construction shall be carried out strictly as per approved plan otherwise NOC for service connection shall not be issued.
15. The department shall not be responsible for any kind of land disputes. In case any dispute regarding ownership/ possession of land/plot boundary arises at any point of time, applicant shall be sole responsible to resolve the same at his own level :
16. The building should be planned and designed keeping in view of earthquake design considerations as the latest Indian standard code of practice strictly as per approved plan
17. Sewerage disposal and drainage remains the responsibility of the applicant and in the absence of public sewerage

system, you have to construct septic tank with in your own land as per approved specifications.

18. It shall solely the responsibility of applicant to make a provision of fire safety in the premises/building, to avoid any kind of mis-happening

Note :- The sanction is valid for three years.

Enclosers: As above :-

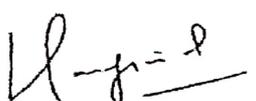

HARJINDER SINGH
Assistant Town Planner
Department of Town and Country Planning
Himachal Pradesh

Copy to :-

1. The Commissioner, Municipal Corporation/ Executive Officer, Municipal Council / Secretary, Nagar Panchayat ___ along with a copy of the approved plan for information and further necessary action.
2. The Chairman, Town and Country Development Authority ___ along with a copy of the approved plan for information and further necessary action.
3. The Registrar/ Sub-Registrar, Sub-Tehsil/ Tehsil ___ District ___ Himachal Pradesh alongwith a copy of the approved plan for information and making necessary entries in the Revenue record.
4. The Registrar/ Sub-Registrar, Dalhousie, Sub-Tehsil/ Tehsil- Dalhousie District Chamba Himachal Pradesh alongwith a copy of the approved plan for information and making necessary entries in the Revenue record
5. The Executive Officer, Municipal Council, Dalhousie for kind information and necessary action please

Enclosers : As above :-




HARJINDER SINGH
Assistant Town Planner
Department of Town and Country Planning
Himachal Pradesh

Photographs during joint inspection of the spot on dated 28.08.2019



PHOTO-1



PHOTO-2



PHOTO-3



PHOTO-4

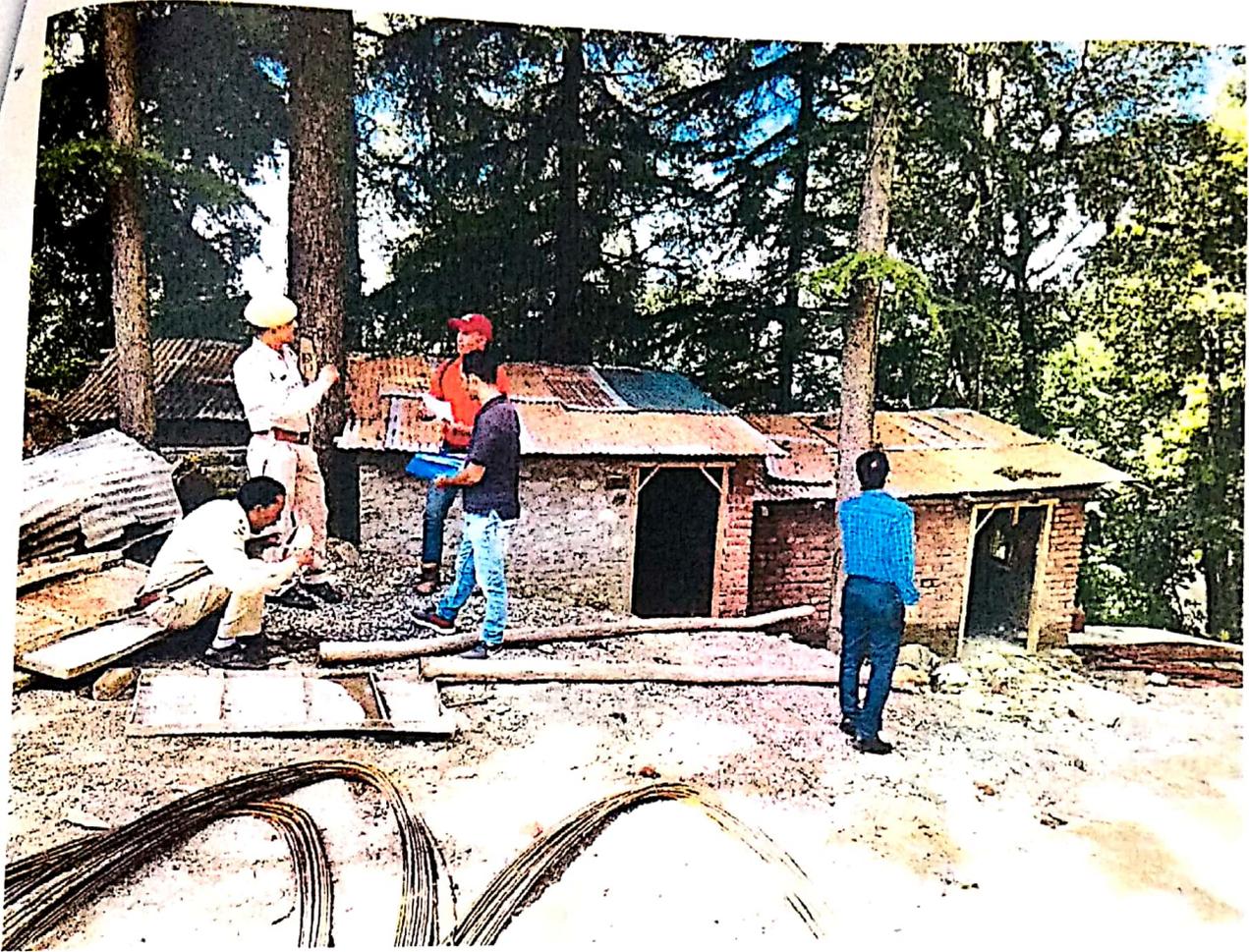


PHOTO-5



PHOTO-6



PHOTO-7