

2021

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION No. 26/2023/EZ**

I.A. No. 46 / 2023

In OA. No.26/2023/EZ

IN THE MATTER OF:

PI VANRAMCHHUANGI

...Applicants (s)

VERSUS

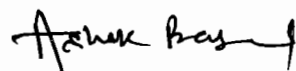
UNION OF INDIA & ORS

...Respondents (s)

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Filed by:



ASHOK PRASAD, ADVOCATE
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Mobile: 9883069404

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION No. 26/2023/EZ**

I.A. No. _____ / 2023

In OA. No.26/2023/EZ

IN THE MATTER OF:

An application for setting aside and quashing of the Order dt. 04.09.2023 issued by Mizoram pollution Control Board.

-AND

IN THE MATTER OF:

PI VANRAMCHHUANGI

...Applicants (s)

VERSUS

UNION OF INDIA & 6 ORS

...Respondents (s)

The humble application of the above named Applicant

MOST RESPECTFULLY SHEWETH:

1. That the above mentioned Original Application is pending disposal before the Hon'ble National Green Tribunal and the contents of the same may kindly be read as a part of this Application.
2. That the Applicant under in this instant case has raised allegation that during the construction of the road the debris/muck is being directly thrown along the slopes next to the road. That debris then slides down directly into the river causing landslide in monsoon. In this regard, Affidavit has been filed on behalf of NHIDCL (Respondent No.3) stating that effective muck disposal plan has been made and dumping of the Muck is being done only in the designated spoil banks as provided by the District Administration. Further, the Respondent would like to apprise this Hon'ble Court that the excavated muck is properly disposed in the designated spoil bank which has been regularly monitored by the Committee at District level and certain preventive measures such as Construction of Gabion wall, Toe wall, breast wall E retaining wall, seeding & mulching had been taken up whenever it is necessitated, as such there is no Environmental violation on the part of NHIDCL.
3. That it is pertinent to mention that 2 meetings of the State Level Committee to monitor Environmental issues arising out of the developmental projects undertaken by NHIDCL in the State of Mizoram were held on dt. 25.07.2022 & 21.12.2022 chaired by the

Adviser (T) to Chief Minister, Gov't of Mizoram. The matter was discussed elaborately and issued some corrective measures and the same was taken up by NHIDCL as per the intension of the committee in a swift manner.

4. That in compliance with the Court Order dt. 17.03.2023, Gov't of Mizoram has constituted the Committee vide Notification No. C.18014/379/2023-FST dt. 18.08.2023.

The Committee carried out inspection of the muck disposal site and the work going on along the NH-54 in Mizoram **on 25.08.2023** where all the widening project has been carried out by NHIDCL and till that time no compensation was imposed against NHIDCL for violation of Environmental norms. It is also pertinent to mention that NHIDCL has not received any inspection report regarding any violations.

*A copy of the Tour Programme constituted by Gov't of Mizoram for site inspection of NH-54 is annexed hereto and marked as **ANNEXURE-"R-1"**.*

5. In the meantime, to the utter surprise and shock of the NHIDCL, the Mizoram Pollution Control Board issued an Order dt. 04.09.2023 wherein it has imposed Environmental Compensation to the tune of **Rs. 5,90,70,000/- against NHIDCL(Respondent No.3 herein) for Violation of Environmental Norms. In this regard, mentioned may be Made that the Penalty which has been imposed covered all the project executed by NHIDCL in the State of Mizoram whereas the subject issues in the instant case is pertaining only to the Project NH-54 which takes off from Lunglei**

District ie.,Chainage 431-562 (Tawipui N-II, Tawipui North-I, Tawipui South, Thingfal, Thingkah, AOC , Saikah, Chawntlangpui, Sihtlangpui, Kawlchaw, Zero Point, Maubawk, Theiva, Theiri, Tuipang village and Lawngtlai city. As such, the penalty amount is not acceptable by NHIDCL.it may be kindly noted that MPCP (Mizoram Pollution Control Board) in its Order dt.04.09.2023 it has been wrongly stated that "**NGT, Eastern Zone Kolkata in its Order dt.17.03.2023 directed the State Government to recover Environmental Compensation to the extent of Rs. 5,90,70,000/- from NHIDCL for Violation of Environmental rules relating to dumping of muck and other violation**". However, NHIDCL would like to submit that plain reading of the NGT Order dt. **17.03.2023** clearly indicates that no such direction has been issued to the State Government relating to recovery of any Environmental Compensation from NHIDCL, rather it was an Order directing to constitute a Committee under the Chairmanship of PCCF to undertake site visit. It may be kindly noted that NHIDCL was not served with any Notice nor the Violation details and the compensation details which was arrived to the tune of Rs. **5,90,70,000/-** and no opportunity was given to NHIDCL to justify their side regarding the penalty being imposed for the said Environmental Compensation. Further, the issues relating to imposing penalty were never discussed in any meeting. It may be noted that the Affidavit submitted on behalf of the State Government was filed **on 10.08.2023** prior to the constitution of the Committee **vide Notification No. C.18014/379/2023-FST dt. 18.08.2023 as per the NGT Order dt. 17.03.2023**. As such, it gives a reasonable doubt as to why the Penalty had been

imposed on NHIDCL way before the Constitution of the Committee who are responsible for undertaking site visit of the project. However, an exorbitant amount of penalty has been imposed upon NHIDCL by MBCP vide Order dt 04.09.2023 despite the fact that the Committee was constituted only on **dt. 18.08.2023** and Site Visit was held only on **25.08.2023 and** without following due procedure and in absence of prior Notice. It is also pertinent to mention that NHIDCL has not received any inspection report regarding any violations. As such, imposing any penalty at this stage is not appropriate and the same is liable to be set aside and quashed.

6. That being highly aggrieved with the said Order issued by MPCB, NHIDCL vide its letter dt. 11.09.2023 send a letter to the Member Secretary, MPCB for withdrawal of its Order and if otherwise, Clarification.

*A copy of the said letter dt. 11.09.2023 is annexed hereto and marked as **ANNEXURE-"R-2"**.*

7. It may be further submitted that even in the Court Order **dt. 11.08.2023** passed by the Hon'ble NGT, direction was not at all given to any Authorities for recovering of the Environmental Compensation from NHIDCL, rather, it has stated that "**the Affidavit submitted by the State Government does not disclosed whether the Environmental Compensation has been recovered, as such, the Chief Secretary, Gov't of Mizoram is directed to submit Affidavit in this regard**".

8. Further, mentioned be made that in the Affidavit Submitted by NHIDCL, ***it has been clearly mentioned that muck has been disposed of in the designated spoil bank, which has been monitored by the District Level Committee, wherein Appreciation Certificate has been issued in some projects in favor of NHIDCL. It is also submitted that certain preventive methods like construction of Gabion wall, toe wall, retaining wall, breast wall, Mulching & seeding have been done where it is necessitated.*** It may be kindly noted that the National Highways or the road construction Projects are being implemented throughout the state of Mizoram in the interest of the public and not with mala-fide intentions to harm the sentiments of the people, but with a view that all the people of the state get socio-economically benefit in terms of tourism and business. Further the project has been executed with a view of strengthening defense for the National safety of the people of the state as well as that of the Country since Mizoram is sharing international borders with Myanmar and Bangladesh, this clearly indicates that NHIDCL has no harmful intention to cause any Environmental destruction while carrying out the project. *Therefore, NHIDCL would like to appraise this Hon'ble Court the Order issued by MPCB imposing penalty without giving any prior Notice to NHIDCL is baseless, frivolous and not sustainable before the law. As per the principal of Natural justice, "before any action is taken, the affected party must be given a Notice to show cause against the proposed action and seeks his explanation. It is a sine Qua Non of the right of fair hearing as such, any Order passed without giving Notice is against*

the Principles of Natural Justice and is void-ab-initio".

Therefore, the same is liable to be set aside and quashed.

*Copies of MPCB Order dt. 4.09.2023, Court Order dt. 17.03.2023 & Court Order dt. 11.08.2023 are annexed hereto and marked as **ANNEXURE-"R-3", "R-4, ANNEXURE-"R-5"**.*

9. *That this petition is made bona fide and in the interest of justice.*

GROUND

1. For that prior Notice was not served upon NHIDCL before issuing the penalty as such the same the same is liable to be dismissed and quashed.
2. For that sufficient opportunity was not granted to NHIDCL in as much as any kinds of liabilities in terms of damage that is to be satisfied by the contractor as per the Contract liability clause.
3. For that the said Order is in violation to the doctrine of Natural Justice and violation of Article 14 & 21 as such the same is liable to be dismissed and quashed.

PRAYER

That under above facts and circumstances, the applicants humbly prayed before this Hon'ble Court for setting aside & quashing of

the Order dt. 04.09.2023 passed by Mizoram Pollution Control Board (MPCB) which is in gross violation with law and against the Principle of Natural Justice and without any evidence.

-AND-

To pass any other Order(s) as your Lordship may deem fit and proper.

And for which Act of fairness, the Applicant as in duty bound shall ever pray.

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AFFIDAVIT

I, Virender Kumar Jakhar , S/o Kashi Ram Jakhar, Aged 61 years, working as Executive Director (Projects) at National Highways and Infrastructure Development Corporation Limited (NHIDCL), 3rd Floor, T-86, Tuikhuahtlang, Aizawl, do hereby solemnly affirm and declare as under:

1. That I am the applicant in the present case hence is competent to swear the present affidavit.
2. That the statement made in paragraph 1 to 9 are true to my information derived from the records of the case to which I believe to be true and the rest are by way of humble submission before the Hon'ble Tribunal.
3. That the Annexures are photocopies/true copies of their respective one.

R. Laltanpuja
11/9/2023
R. LALTANPUJA
Notary Public
Aizawl, Mizoram

V. Jakhar
11/09/2023
DEPONENT

Notarial Registration
No. 21/9
Date 11/9/23

**TOUR PROGRAMME OF THE COMMITTEE CONSTITUTED BY GOVT. OF MIZORAM
UNDER THE CHAIRMANSHIP OF PU R.K. SINGH, PCCF (HoFF) VIDE NOTIFICATION
DT. 18.08.2023 FOR SITE INSPECTION ON WIDENING OF TWO LANE OF NH 54
BETWEEN KM 431 TO KM 562 IN REGARDS TO NGT CASE O.A. NO. 26 OF 2023-24**

24.08.2023 (Thu) 12.00 p.m.	Departure Aizawl for Lunglei. Halt at Lunglei
25.08.2023 (Fri) 8.00 a.m.	Departure Lunglei for Tuipang. <i>En route</i> , site inspection of NH 54 widening between Km 431 to Km 562 and of muck disposal areas. Halt at Siaha.
26.08.2023 (Sat) 7.00 a.m.	Departure Siaha for Aizawl.

The Committee will consist of PCCF, Mizoram; Deputy Inspector General, MoEF&CC, Chief Wildlife Warden; Deputy Commissioner Lunglei, Deputy Commissioner, Lawngtlai and Deputy Commissioner Siaha Districts for their respective jurisdiction and Member Secretary, Mizoram Pollution Control Board. The CF (Southern Circle) and officials of NHIDCL will also accompany the Committee.

Sd/-

(JENNY SAILO)


Deputy Conservator of Forests (Hqrs)
Environment, Forests & Climate Change Department,
Mizoram, Aizawl

Memo No. D.O. No. PB/PCCF/EF&CC/1/2022

Aizawl, Dated the 18th August, 2023

Copy to:

- 1) All Committee Members for information and necessary action.
- 2) Conservator of Forests, Southern Circle, Lunglei for information and necessary action. He is informed to instruct DFO Lunglei, DCCFs of Lai ADC and MADC to accompany the Committee during the site inspection for the area under their jurisdiction and to make all required arrangements for the Committee's visit. He shall also accompany the Committee during the site inspection.
- 3) Deputy Commissioner - Lunglei District, Lawngtlai District and Siaha District. They are informed to accompany while conducting site visit in their respective jurisdiction and to keep ready muck disposal site allotment with them.
- 4) Executive Director, National Highways & Infrastructure Development Corporation Ltd, Tuikhuahtlang, Aizawl for information and necessary action. He is requested to accompany the Committee during the site inspection or depute suitable officer for this purpose. All works along the stretch of kms 431 to kms 562 may please be shown to the Committee along with all muck disposal areas during site inspection.


 Deputy Conservator of Forests (Hqrs)
 Environment, Forests & Climate Change Department,
 Mizoram, Aizawl

NATIONAL HIGHWAYS & INFRASTRUCTURE DEVELOPMENT CORPORATION LTD.
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No. NHIDCL/ RO/Gen/2023 / 409
 To,

Date: 11/09/2023

The Member Secretary,
 Mizoram State Pollution Control Board,
 Khatla, Aizawl
 Mizoram-796001.

Subject: IMPOSITION OF ENVIRONMENTAL COMPENSATION CHARGE AGAINST NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT CORPORATION LIMITED (NHIDCL) FOR VIOLATION OF ENVIRONMENTAL NORMS- Representation for withdrawal of Order and if otherwise, clarification.


Sir,

By way of an order no. H.88088/Poltn./50(102)/2023-MPCB dated 04.09.2023, National Highways and Infrastructure Development Corporation Limited (NHIDCL) under Ministry of Road Transport and Highways (MORTH) has been asked to deposit an Environmental Compensation to the extent of Rs 5,90,70,000/- (Rupees Five Crore Ninety Lakh Seventy Thousand Only) favoring Member Secretary, Mizoram Pollution Control Board within a period of one week.

2. The Contents of the order has been perused in totality and it is quite surprising as well as not acceptable as per the 'Law of land' and NHIDCL outwardly condemns the same as due process has not been followed while imposing such a humongous Environmental Compensation damage to the Government of India.

3. It is quite surprising that the State Government has placed a wrong information before the Hon'ble NGT in its affidavit that penalty amounting to Rs 5,90,70,000/- (Rupees Five Crore Ninety Lakh Seventy Thousand Only) is already imposed on NHIDCL for the Environmental Compensation, which is incorrect and devoid of facts and figures.

4. Though, NHIDCL has not been apprised of the damages before and it came to the knowledge of NHIDCL during the course of hearing on 11.08.2023 and as per the order passed by Hon'ble NGT court that a penalty of Rs 5,90,70,000/- (Rupees Five Crore Ninety Lakh Seventy Thousand Only) has been imposed on NHIDCL. As per the Hon'ble NGT court order dated 11.08.2023 para 6, wherein it has been contended that as per the paragraph-22 of the affidavit filed by State Government on 10.08.2023, a tabular Chart has been given for the six districts that fall within the Road Widening project on

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NH-54, which alleged that there has been violations of the rules relating to dumping of muck and other violation. The Hon'ble NGT court took the cognizance of the submissions of the State Government and desired to know whether, the amount of Rs 5,90,70,000/- (Rupees Five Crore Ninety Lakh Seventy Thousand only) has been recovered from NHIDCL and action taken against the officials of NHIDCL. However, it is to submit that NHIDCL has been served order on 04.09.2023 and neither advance copy of Court affidavit has been given to NHIDCL as per the Court service mechanism, wherein it is mandatory to serve advance copies to the parties. Therefore, the detailed damages imposed should be provided to NHIDCL for further necessary action.

5. It addition to above, NHIDCL would like to inform and request clarification regarding the damages imposed.

(i) The Government of India has requested the Government of Japan to provide financing for about 1,200km of roads that enhance connectivity in North-East States. Out of 10 candidate roads and bridges, Aizawl-Tuipang section of NH54 in the State of Mizoram has been selected as one of the two priority projects (the other is Tura -Dalu section of NH51 in Meghalaya).

(ii) The project objective is to improve intra-state connectivity for North East States and regional road connectivity for Mizoram and North East India to neighboring countries. The residents of the North East Region, Bangladesh and Myanmar and countries beyond should benefit from the increased regional connectivity which is expected to result in increased trade and economic development over the longer term.

(iii) The existing road has been about 381 km in length and stretches over five districts in Mizoram. NH-54 is the most important road in the State, connecting Mizoram with other States of India and other countries. This is the lifeline of many Mizo people who depend on road network for the supply of essential commodities. The existing condition of road has been poor and the road has been prone to landslide and slope failures. The riding quality has also been poor, particularly after Lunglei district, making travelling arduous and difficult, particularly in monsoon season.

(iv) The significant environmental impacts attributable to the widening and improvement of the road pertained to clearance of roadside trees for widening and forest clearance for spoil bank and resettlement site development, temporary deterioration of ambient air quality and noise/vibration levels during construction phase from land clearing, ground shaping, and quarry and camp operations; and community and occupational health and safety. These impacts has been mitigated through

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compensatory afforestation; timing of construction activities has been controlled to minimize fauna disturbance; control of noise, dust, wastewater, fuel combustion emissions, and construction debris generation through good construction practices; and implementation of road safety measures has been done to separate road users from active construction fronts.

(v) The assessment of the potential impact revealed that the project will not affect critical habitats or sensitive ecosystem as a road already exists and no new road construction is taking place inside pristine or government reserved forests. The project area is largely made up of agricultural fields and settlements.

(vi) As a part of the developmental process that during operation stage, the main impacts are increase in mobile emissions, road safety to motorist and pedestrian. Road safety measures will be implemented as per IRC guidelines. Road safety appurtenances like information, regulatory and warning signs coupled with crash barriers will reduce serious injuries to road users. Adequate slope protection and retaining wall as well as cross drains and side drains will be installed and maintenance will be implemented to avoid soil erosion and reduce the risk of landslide.

(vii) As per MOEF EIA Notification dated 14.09.2006 (as amended in August 2013), any highway project falls under Category A if the project entails i) New National Highways; and ii) Expansion of National Highways greater than 100km involving additional right of way or land acquisition greater than 40m on existing alignments and 60m on re-alignments and bypasses. The proposed expansion & widening of NH54 does not involve additional land acquisition beyond 40m and thus does not fall under Category A, as defined in EIA Notification. While preliminary environmental assessment was undertaken during the preparation of the NH54 DPR, the project does not require environmental clearance from MOEF. The project has then been finally approved at the Central, State and JICA level.

(viii) To mitigate the landslide and fragile slopes of the hills falling in the project, adequate protection measures costing more than 50% of the project cost has been inducted in the Construction activities. More than the 70% provisioned protection measures to trigger landslides have been constructed at the project sites.

(ix) It has been clearly misunderstood that dumping has been done on the sides, which brings out a wrong notion regarding illegal dumping. The Aizawl Tuipang Project has been of widening in nature and filling on the side slopes has been done from case

[Handwritten signature]
11/9

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to case basis as per the site requirement. As a technical requirement, the cut slopes are balanced with the fill component to balance the cut and fill volume and lower the surplus cut soil. However, the surplus soils is being done in the 'Spoil Banks', which have been arranged through the District Administration and the surplus cut soil is been done in the designated spoil banks. The same is endorsed by various documents of the District Administration, Forest Department and local Administrative bodies.

(x) National Level laws and Regulations.

(a) The Environment (Protection) Act, 1986-The Environment (Protection) Act, 1986 is the umbrella legislation providing for the protection of environment in the country. Subject to the provisions of this Act, the Central Government, shall have the power to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing controlling and abating environmental pollution. For the implementation of act Environment (Protection) Rules, had been formulated in 1986. The Rules provided for various standards for emission and discharge of environmental pollutants (Schedule I to IV). The Central Government has delegated the powers vested on it (under section 5 of the Act) to the State Govt. of Mizoram. This law is applicable to this project for environment protection in general.

(b) The Forest (Conservation) Act, 1980 (amended in 1988)- The Forest (Conservation) Act, 1980 amended in 1988 pertains to the cases of diversion of forest area and felling of roadside plantation. Accordingly, NHIDCL has applied for Forest Clearance vide different proposal and Forest approvals have been granted to NHIDCL by Forest.

(c) The Water (Prevention and Control of Pollution) Act, 1974 - The Water (prevention and Control of Pollution) Act, 1974 resulted in the establishment of the Central and State level Pollution Control Boards (CPCB and SPCBs) whose responsibilities include managing water quality and effluent standards, as well as monitoring water quality. As per the project mandate, the Contractors of NHIDCL are required to obtain the following permits and have availed the same, which are as below.



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- * Permission of the State Government for extraction of boulders from quarry;
- * Permission of Village Panchayat and Pollution Control Board for installation of crushers;
- * License for use of explosives;
- * Permission of the State Government for drawing water from river/reservoir;
- * License from inspector of factories or other competent Authority for setting up batching plant;
- * Clearance of Pollution Control Board for setting up batching plant;
- * Clearance of Village Panchayats and Pollution Control Board for setting up asphalt plant;
- * Permission of Village Panchayats and State Government for borrow earth; and
- * Any other permits, clearances or approvals required under Applicable Laws.

(xi) Generic Scoping matrix carried out for the Aizawl-Tuipang project.


- (a) **Climate/Meteorology:** The impacts on micro-climate and micro meteorological phenomena are negligible because the project-related structures are not disturbing the wind path.
- (b) **Topography-Minor Changes** in topographic conditions are expected due to the requirement of cutting filling work. Balancing the volume of cutting and filling is recommended to minimize the volume of spoil soil.
- (c) **Geology-**No impact is there as the project doesn't change geological features and is of widening in nature.
- (d) **Soil Erosion-**During the Construction stage, Soil erosion has been there during the monsoon season. However, Construction has been avoided during the monsoon seasons. The poor drainage system on the existing road is the primary cause for the soil erosion. The drainage system alongwith protection measures is being regularly constructed.

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- (e) **Hydrology**-Minor and temporary impacts exists during the construction stage.
- (f) **Groundwater**-The project doesn't envision the use of ground water and thus no impact is there.
- (g) **Ecosystem, Flora, Fauna and Biodiversity**-The project is not affecting pristine ecosystem along the construction being carried out on existing road. Minor local plantation and Jhum plantation is affected to a little extent.
- (h) **Natural Disaster**- Many areas of the road are prone to the landslide and appropriate measures like construction of Retaining Wall, Breast wall, Gabion wall, Toe wall etc has been provisioned during the Construction stage and more than 70% quantities have been constructed on ground.
- (xii) **Forest Clearances and Overlapping land.**
- (a) Due to very labyrinthine process of Forest Clearance by Forest Clearance, the Forest Clearances have been granted at a very late stages i.e. more than 2 years period.
- (b) NHIDCL has requested in various review meetings to let the work start as Forest Clearance has been abysmally delayed and idling charges and claims by Contractors have been anticipated. This issue was brought in numerous meetings with PCCF and others to expedite the Forest Clearance and provide work fronts to NHIDCL for carrying out construction activities.
- (c) NHIDCL kept carrying out the work in the land provided by CALA. Later on, some parcel of land has been claimed by Forest Department, which has become an overlapping between Revenue and Forest Department. The overlapping issue is a problem in the state due to non-availability of the Revenue records. This problem is in this projects and also in other projects and numerous correspondences with State Government have been made by NHIDCL to resolve this issue and expedite the Forest Clearance.
- (d) The works have been suddenly stopped by the Forest Department in the last one year in few stretches as well as some projects were completely halted. As such, NHIDCL has stopped the Contractors from carrying out any activities within the belated land claimed by Forest Department. In the initial phase, the projects have been happening


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at a good pace, which lately has slowed down due to restrictions by the Forest Department for their land claims.

(e) The projects have time frame for execution and it has been a necessity to get the work done as limited working window is available and anticipated claims due to idling of machineries have been kept in mind by NHIDCL and penal NPV has been paid off.

(f) In one of the Stage I clearance, para 2(A)5 (Copy enclosed), it has been remarked that:- **“State Government will initiate disciplinary action against the Forest officers/officials concerned as per Rules / Laws for not being able to prevent use of forest land for non-forestry purpose without prior approval of Government of India and compliance shall be submitted within one month to IRO for intimation to Ministry, New Delhi”**. The remark by MOEF, Shillong also establishes that the State Forest Officials have been aware of the Construction activities being carried out by NHIDCL within their claimed Forest land and that too the Administrative and local Forest departments has also been well aware.

(g) For Land, CALA handovers the land to the NHIDCL, which is subsequently handed over to the EPC Contractors. The Contractors have carried out works within the land provided by CALA as it was not objected by anyone and violations on their part is not there as no one objected from the same i.e. Forest officials nor District Administration. As per the Contract Agreement, the Authority i.e. NHIDCL has to provide the encumbrance free land to the EPC Contractor.

(h) The Forest Department has imposed violations and penal NPV has been charged from NHIDCL. NHIDCL in the work interest as the working permission shall not be granted by Forest Department without the payment of penal NPV and foreseeing the losses due to idling claims and limited working window, NHIDCL deposited a total amount of Rs 2.12 Crore towards penal NPV to the Forest Department in the interest of work and prevailing issues of overlapping land between Revenue and Forest Department. It is further reiterated that violation imposed by Forest Department is due to the overlapping land disputes between Revenue and Forest department, which is also prevalent in other projects i.e. Vairengte Sairang where works could not even start due to their overlapping land issues. There has been no fault of the NHIDCL nor its Contractors as the violations are charged at a belated stage by Forest Department and there is still non-clarity between Revenue and Forest Department lands in Mizoram.

Head Quarter: 3rd Floor, PTI Building, 4 Parliament Street, New Delhi-110004
 Website: www.nhidcl.com

NATIONAL HIGHWAYS & INFRASTRUCTURE DEVELOPMENT CORPORATION LTD.

(Ministry of Road Transport & Highways, Government of India)

Regional Office-Aizawl, Mizoram.

3rd Floor, T-86, Tuikhuathlang, Aizawl, Mizoram-796001Email: ro-mizoram@nhidcl.com

6. The above facts and submission may kindly be taken into consideration please. If the Mizoram Pollution Control Board (MPCB) is not satisfied with the submissions, then, it may kindly inform the NHIDCL of detailed damages with an opportunity to put up a stand and to establish the fault, if any lies with the NHIDCL or its EPC Contractors.

7. In light of above, the order served to this office may kindly be withdrawn, or else clarification regarding the detailed damages imposed should be provided to NHIDCL for further necessary action.

8. This issues with the approval of Competent Authority.

Enclosure: As above

B
11/9/2023

Paleti Brahmnanandanam
General Manager (LA & Coord)

Copy to:-

- | | |
|---|--------------------------|
| 1. P.P.S to the Chief Secretary, Govt. of Mizoram | :- For Kind Information. |
| 2. Principal Secretary, Environment, Forests and Climate Change, Government of Mizoram, | :- For Kind Information. |
| 3. PCCF, Environment, Forests and Climate Change, Government of Mizoram | :- For Kind Information. |
| 4. PS to MD, NHIDCL | :- For Kind Information. |
| 5. PS to Director (Technical), NHIDCL, HQ | :- For Kind Information. |
| 6. Executive Director (III), NHIDCL, HQ | :- For Kind Information. |
| 7. General Manager(P), PMU Seling, Lunglei and Lawngtlai | :- For Kind Information. |
| 8. Guard File | :- For Records. |

MIZORAM POLLUTION CONTROL BOARD

No.H.88088/Poltn./50(102)/2023-MPCB/

: Dated Aizawl, the 4th September, 2023

ORDER

IMPOSITION OF ENVIRONMENTAL COMPENSATION CHARGE AGAINST NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT CORPORATION LIMITED (NHIDCL) FOR VIOLATION OF ENVIRONMENTAL NORMS

WHEREAS, the Hon'ble National Green Tribunal, NGT, Eastern Zone, Kolkata Bench in its order dated 17.03.2023 & 11.08.2023 in O.A 26/2023/EZ in the matter of Vanramchhuangi versus Union of India and others has issued following directions to the State Government:

01. To constitute Committee under the chairmanship of PCCF, Mizoram, Integrated Regional Office of MoEF&CC, Shillong, Mizoram Pollution Control Board, State Wildlife Warden and concerned DMs of the respected Districts of Mizoram. The Committee shall undertake site visit and submit Committee Report on affidavit.
02. To recover Environmental Compensation to the extent of Rs.5,90,70,000/- (Rupees Five Crore Ninety Lakh Seventy Thousand only) from NHIDCL for violation of environmental rules relating to dumping of muck and other violations.
03. To take legal actions against the Officers of the NHIDCL responsible for the violation of the Environmental Rules.
04. Chief Secretary, Govt. of Mizoram is directed to file his personal affidavit in the above regard by next date of listing, that is, 13.09.2023.

AND WHEREAS, in compliance of the above stated directions of the Hon'ble National Green Tribunal(NGT), Eastern Zone, Kolkata Bench, contained in its order dated 17.03.2023, Govt. of Mizoram has constituted the Committee vide Notification No.C.18014/379/2023-FST dt. 18.08.2023 comprising of the following members:

- | | |
|----------|---|
| Chairman | - Principal Chief Conservator of Forests, Mizoram |
| Members | -Representative of Integrated Regional Office, MoEF&CC, Shillong |
| | -Chief Wildlife Warden, Mizoram |
| | -Deputy Commissioner/District Magistrate, Lunglei District with respect to area falling under Lunglei District |
| | - Deputy Commissioner/District Magistrate, Lawngtlai District with respect to area falling under Lawngtlai District |
| | -Deputy Commissioner/District Magistrate, Siaha District with respect to area falling under Siaha District |

Member Secretary - Member Secretary, Mizoram Pollution Control Board, Aizawl

Contd./-

-2-

AND WHEREAS, the Committee constituted above, as per the order of the Hon'ble National Green Tribunal(NGT), Eastern Zone, Kolkata Bench dated 17.03.2023, has carried out inspection of the muck disposal sites and the works going on along the NH-54 in Mizoram between Km 431/00 to Km 562/00 on 25th August 2023 where NHIDCL has been undertaking road widening project.

AND WHEREAS, the Hon'ble National Green Tribunal(NGT), Eastern Zone, Kolkata Bench in its order dated 17.03.2023 directed the State Government to recover Environmental Compensation to the extent of Rs.5,90,70,000/- (Rupees Five Crore Ninety Lakh Seventy Thousand only) from NHIDCL for violation of environmental rules relating to dumping of muck and other violations.

AND WHEREAS, the State Government has directed Mizoram Pollution Control Board, vide letter No.C.18014/379/2023/FST dated 01.09.2023 to take immediate actions for recovery of the Environmental Compensation in compliance to the above stated Hon'ble NGT order.

NOW THEREFORE, in compliance of the order of the Hon'ble National Green Tribunal(NGT), Eastern Zone, Kolkata Bench dated 11.08.2023 and following the direction of the Govt. of Mizoram, the National Highways and Infrastructure Development Corporation (NHIDCL) is hereby imposed Environmental Compensation to the extent of Rs. Rs.5,90,70,000/- (Rupees Five Crore Ninety Lakh Seventy Thousand only). The amount is to be deposited in the form of Bank Draft, in favour of the Member Secretary, Mizoram Pollution Control Board and payable at the State Bank of India, Zodin Branch, Aizawl within a period of one week from the date of issue of this order without fail.

This issues with the approval of the Competent Authority.

Sd/-C.LALDUHAWMA
Member Secretary

Memo No.H.88088/Poltn./50(102)/2023-MPCB/ : Dated Aizawl, the 4th September, 2023

To,

The Executive Director,

M/s. National Highways and Infrastructure Development Corporation (NHIDCL)

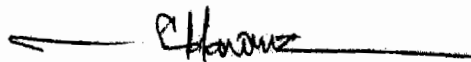
Tuikhuahtlang, Aizawl, Mizoram

Email: ro-mizoram@nhidcl.com

Contd./-

Copy to:

1. The P.P.S to the Chief Secretary, Govt. of Mizoram for kind information of the Chief Secretary.
2. The Principal Secretary, Environment, Forests and Climate Change, Government of Mizoram, for kind information.
3. The PCCF, Environment, Forests and Climate Change, Government of Mizoram, for kind information.
4. The Regional Director, RDNE, Central Pollution Control Board, TUMSIR, Shillong, for kind information.
5. The Deputy Commissioners of all Districts, Mizoram, for kind information.
6. The Superintendent of Police, Aizawl, for kind information.
7. Office Copy.


(C.LALDUHAWMA)
Member Secretary
Mizoram Pollution Control Board

Member Secretary
Mizoram Pollution Control Board
Mizoram : Aizawl

Item No.01

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.26/2023/EZ

Pi Vanramchhuangi

Applicant(s)

Versus

Union of India &Ors.

Respondent(s)

Date of hearing: 17.03.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

For Applicant(s) :Mr. Gaurav Kumar Bansal, Advocate

ORDER

1. Heard Mr. Gaurav Kumar Bansal, learned Counsel appearing (in Virtual Mode) for the Applicant on admission.
2. The allegation in the Original Application is that work of construction of road relating to widening of Two-Lane of NH-54 between the Km 431/00 to Km 562/00 in the State of Mizoram is going on. It is stated that Detailed Project Report has been prepared and the "Project Corridor" takes off from Lunglei District near Tawipui North Village-2 at Km 431+00 and runs towards southern direction, passes through a number of villages like Tawipui North-2, Tawipui North-1, Tawipui South, Thingfal, Thingka, AOC, Saika, Chawntlangpui, Sihtlangpui, Kawlchaw, Zero point, Maubawk, Theiva, Theihri, Tuipang village and Lawngtlai City from Km 472+00 to Km 480+00 and terminates at km 562+000 at Tuipang Village within Saiha District.
3. It is stated that the debris/muck is being directly thrown along the slopes next to the road which then slides down directly into the river.

4. It is also alleged that Sixty-Two (62) disposal sites have been demarcated which is insufficient.
5. The work of road construction/road widening is stated to be executed by Respondent No.3, National Highways and Infrastructure Development Corporation Limited.
6. It has not been stated whether Environmental Clearance has been granted for the Project or not.
7. Learned Counsel for the Applicant submits that for a Project of 100 or less than 100 kms, Environmental Clearance is not required.
8. The submission is that Forest Clearance has also not been granted and in Paragraph-12 of the Original Application it is stated that the Detailed Project Report and the process for obtaining Forest Clearance is pending with the Government of Mizoram which will then be submitted to the Ministry of Environment, Forests & Climate Change, Government of India.
9. After hearing the Counsel and perusing the application we are of the opinion that the matter requires consideration keeping in view the environmental issues. Hence, we constitute a committee under the Chairmanship of PCCF, Integrated Regional Office of MoEF & CC, Shillong, PCB Mizoram, State Wildlife Warden and concerned DMs of the respected Districts of Mizoram. The Committee shall undertake site visit, concerned parties including NHAI and submit a report within two months. The nodal agency for the committee shall be PCB Mizoram.
10. Issue notice to the respondents, returnable within four weeks.
11. Mr. Ashok Prasad, learned Counsel, who is present in Court, accepts notice on behalf of Respondent Nos.2 & 3.

12. Ms. RashmiSinghee, learned Counsel, appearing (in Virtual Mode) accepts notice on behalf of Respondent No.1.
13. Ms. Ana Upadhayya, learned Counsel appearing (in Virtual Mode) accepts notice on behalf of Respondent Nos.4, 5 & 6.
14. All the Respondents shall file their counter-affidavit within four weeks.
15. All the Counsel shall also e-file Vakalatnama on behalf of their respective Departments.
16. Learned Counsel for the Applicant shall provide e-copy/soft copy of the Original Application along with its all annexures to Mr. Ashok Prasad, Ms.RashmiSinghee and Ms.Ana Upadhayya within 24 hours.
17. **List on 20.04.2023.**

.....
B. Amit Sthalekar, JM

.....
Prof. A. Senthil Vel, EM

March 17, 2023
Original Application No.26/2023/EZ
BD

Item No.06

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.26/2023/EZ

Pi Vanramchhuangi Applicant(s)
Union of India & Ors. Versus Respondent(s)

Date of hearing: 11.08.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Mr. Gaurav Kumar Bansal, Advocate (in Virtual Mode)

For Respondent(s): Ms. Rashmi Singhee, Advocate for R-1 (in Virtual Mode),
Mr. Ashok Prasad, Advocate for R-2 & 3,
Mr. Siddhesh Kotwal, Advocate a/w
Ms. Ana Upadhyay, Adv. for R-4, 5, 6 & 7 (in Virtual Mode)

ORDER

1. Mr. Gaurav Kumar Bansal, learned Counsel is present (in Virtual) for the Applicant.
2. Affidavit dated 10.08.2023 has been filed by Respondent Nos.4, 6 & 7, State Respondents; the same is taken on record.
3. Ms. Rashmi Singhee, learned Counsel appearing (in Virtual Mode) for Respondent No.1 and Mr. Ashok Prasad, learned Counsel appearing for Respondent Nos.2 & 3, state that they have not received the copy of the affidavit dated 10.08.2023 filed by State Respondents.
4. Mr. Siddhesh Kotwal, learned Counsel appearing (in Virtual Mode) for the State Respondents, shall serve e-copy/soft copy of the affidavit dated 10.08.2023 along with its annexures upon Ms. Rashmi Singhee and Mr. Ashok Prasad, learned Counsel for the other Respondents within 24 hours.

5. Mr. Siddhesh Kotwal, learned Counsel prays for and is granted four weeks time for filing the Committee Report on affidavit.
6. In paragraph-22 of the affidavit dated 10.08.2023 filed by the State Respondents, a tabular chart has been given of the six districts that fall within the Road Widening Project on NH-54 which discloses that there has been violation of Rules relating to dumping of muck and other violations. Environmental Compensation to the extent of Rs.5,90,70,000/- (Rupees Five Crores ninety lakhs seventy thousand only) has been imposed against the National Highway Infrastructure Development Corporation Limited (NHIDCL). The affidavit does not disclose whether this amount has been recovered and it also does not disclose what action has been taken against the Officers of the NHIDCL responsible for the violation and whether any FIRs have been lodged against them for violations of the Environmental Rules.
7. The State Respondents are directed to file affidavit by the next date of listing specifically stating what action has been taken against in this regard with regard to recovery of the Environmental Compensation and action taken against the Officers involved in Environmental Violations.
8. We, therefore, direct the Chief Secretary, Govt. of Mizoram, to file his personal affidavit in this regard by the next date of listing.
9. **List on 13.09.2023.**

.....
B. Amit Sthalekar, JM

.....
Dr. Arun Kumar Verma, EM

August 11, 2023,
Original Application No.26/2023/EZ
MN