

No. MCH/ Sanitation /SWM P /2023 2783 dated : 29-12-2023

To

The Hon'ble Chairman ,
National Green Tribunal
Court at New Delhi .Subject:- Reply in compliance of order dated 01-11-2023 in respect of M.A.
No 97/2022, Original application No. 05/2020 titled as Rita Sharma
Vs State of H.P. & Others .

Respected Sir

It is submitted that the action taken report / reply in respect of above said case is
as under :-

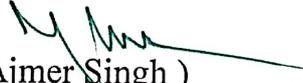
1. **FCA Case :-** Municipal Council Hamirpur has been forwarded FCA case to the Forest deptt. / D.F.O.Hamirpur in respect of 0.65 hectare land for the construction of Solid Waste Mangement Project alongwith road from main road towards said plant vide office letter No.758 dated 03-05-2003 . The copy of same is enclosed as Annexure – A .
2. **Payment to Forest deptt. :-** The Municipal Council Hamirpir had already made payment to forest deptt. amounting to Rs. 4,27,204 /- for the forest land measuring 0.65 hecter vide this office letter No. 2599 dated 21-07-2004, cheque No. 023201 dated 21-07-2004. In this connection Sh. S.K. Aggarwal Dy Conservator of Forest (Central) addressed the matter to the Pr.Secreatry (Forests) Govt. H.P. and copy endst. to this office No. vide letter No. 5679-80 dated 12-07-2004 regarding diversion of 0.65 hecter of forest land. Copy attached Annexure - B .
3. **Construction of SWM Plant :-** The Municipal Council Hamirpur has constructed Solid Waste Management Plant during the year 2004-2005 at Dagneri. The above mentioned Project inaugurated by then Hon'ble Chief Minister of Himachal Pradesh on dated 22-10-2005 .
4. **Area of land :-** 0.65 hectare .
5. **Forest deptt. Approval :-** The forest deptt.has already given principal approval for the construction of Solid Waste Management Plant in 0.65 hectare land to Municipal Council Hamirpur vide letter No. 5582 dated 27-07-2006 . Copy attached as Annexure - C.
6. **Status of land :-** Solid Waste Management Plant has been recorded as gair mumkin Kura Sanyanter in Khasra No. 990 measuring area 4374.00 Sqm.and gair mumkin Sarak in khasra No. 765 measuring area 1082.00 Sqm. situated in Tikka Dagneri Mouja Bajuri Tehsil and Distt. Hamirpur as per Jamabandi 2021-22 , which is in possession of Municipal Council Hamirpur and process of entry in the colum of ownership is in progress . Copy of Jamabandi is enclosed herewith as Annexure- D .
7. **Machineries :-** Many type of machineries have been installed in SWM Plant at Dagneri to process the garbage and detail of same is as under :-
 - (i) **Trommel Machine :-** Trommel machine is working there regularly to segregate unsegrated waste .
 - (ii) **Bailing Machine :-** Two Nos bailing machine are working there and same are used to bail refused derived Fuel (RDF) material so that same may be sent to Ultratech Cement Plant Bagha for final disposal .
 - (iii) **Shreader Machine :-** Shreader Machine is regularly working at SWM Plant for shredding of pet – bottles .
 - (iv) **Composting Machine (OWC) :-** Composting Machine having capacity of one ton is regularly working at SWM Plant to process the wet waste into organic compost .

- (v) **Single Use Plastic Shredder Machine :-** SUP Shredder Machine installed at SWM plant Dagneri on dated 06-03-2023 .
- (vi) **2nd OWC Machine :-** Composting machine having capacity of 2 ton .
8. **Waste Generation and Processing :-** 6.2 TPD (i.e. Wet Waste 3.4 TPD and Dry Waste 2.8 TPD) .
9. **Non - biodegradable Waste :-** The Non-biodegradable Waste is being sent to Ultratech Cement Plant Bagha for final disposal .
10. **The Hon'ble Court given direction to execute four Works :-** The detail of same is as under :-
- (i) **Construction of retaining Wall with hill side to avoid spillage of Solid waste in Hathli Khad :-** The retaining wall has been constructed there which joined the corners of both side hill to avoid spillage of Solid Waste towards Hathli Khad .
- (ii) **Construction of Storm Drain :-** Storm drain has been constructed towards adjoining hill side to avoid the entry of storm water in SWM Plant. Rainy water is coming from hill side flows through said drain .
- (iii) **Net Facility :-** The net facility is available at legacy waste site .
- (iv) **Fencing Facility :-** The fencing facility is available there .
11. **Legacy Waste :-** The legacy waste tender agreement has been done on dated 15-03-2023 with **Suntan Life Company** and legacy waste process work has been started by the company on dated 04-04-2023 at SWM Plant Dagheri . Machinery installed by the firm are Suntan Company , Sorter Machine , Excavater , Tipper and Weigh Bridge etc. . 4432.6 tons legacy waste has been sorted out on 11-12-2023 . Legacy waste lifted 103.775 ton on dated 10-12-2023 .
12. **Legacy Waste Clearance report of Suntan Life company :-** This Council received clearance report regarding legacy waste from Suntan Life vide reference No. STL/2312182 dated 13-12- 2023 vide receipt diary No. 2913 dated 13-12-2023 . As per the contents of said report 763.275 tons of biomining legacy waste has been sorted out / disposed of for the period of i.e. 24 Oct. 2023 to 12 Dec. 2023 and copy of same is enclosed herewith as Annexure – E .
13. **RDF :-** The dry waste is sent on regular basis . The quantity of RDF 1098.25 ton dated 24-10-2019 to 01-12-2023 sent to Ultra tech Cement plant Bagha , Punjab , Shuddh sustainable private .Ltd .
14. **Composting pits :-** 68 Nos. composting pits are functioning and wet waste convert to compost / manure .
15. **Garbage processed through Scientific Manner at SWM Plant as per rule 2016 :-** MC Hamirpur is making every efforts to maintain good environment at Solid Waste Management Plant and garbage processed in scientific manner there according to rule 2016 SWM bye laws & 2018 . This office has already installed six Nos. machineries at SWM Plant Dagneri .
16. **N.O.C. Authorisation of H.P. State Pollution Control Board :-** This Council has already received approval / consent from state pollution Control Board Una regarding Solid Waste Management Plant . The copy of ame is enclosed as Annexure- F .
17. **Compost Report in respect of SWM Plant :-** The copy of same is enclosed herewith as Annexure – G .
18. **Target to Clear Legacy Waste :-** Municipal Council will try to clear the legacy waste upto April 2024 as per the direction of Hon'ble Court NGT order dated 21-07-2023 i.e. nine months time period .

- 19 Status Quo :-** Further strengthening of processing plant could not be processed due to status quo by the Hon'ble Senior Civil Judge Court No.-1 Hamirpur District Hamirpur HP bearing CMA Redg. No. 1648/2021 & Civil Suit Reg. No. 744/2021 , date of decision 11-09-2023 . It is further submitted that after this the appeal has been filed for the vacation of status quo in the Hon'ble District and Session Judge Hamirpur HP for which the Hon'ble Court the next date of hearing 21-12-2023 .Copy enclosed as Annexure – H .
- 20 Regarding transfer of 0.65 hectare SWM land :-** It is submitted that this Council has already been forwarded transfer case of land vide office letter No. SWM Project / 119/ MCH/2021 dated 17-04-2021 and copy of same is enclosed as Annexure- I
- It is further submitted that long pending matter regarding transfer of land i.e. 0.65 hecter was discussed in the house meeting dated 14-09-2023 vide Resolution No. 165/2023(2) and unanimously resolved that request be mad to the Deputy Commissioner Hamirpur to transfer the said land in the name of MC/ Urban Development deptt. This office has again sent request letter to Deputy Commissioner Hamirpur along with aforesaid resolution vide this office letter No. 1640 dated 22-09-2023 regarding transfer as well as mutation of above said land . Copy attached as Annexure- J .
- 21 Functional :-** The S.W.M. Plant is functional w.e.f. 22-10-2005 till today .

The same is submitted for favour of information and further necessary action please.

Yours faithfully,


(Ajmer Singh)
Executive Officer ,
Municipal Council,
Hamirpur .

No. H.P. Forest Department,
Dated Hamirpur the/

From: D.F.O. Hamirpur To: H.O. Hamirpur

Subject: Transfer of Forest Land for construct:
Solid Waste Management Project in til
Dugheri: 0.20 ha. and Construction
Road in UP Mohal Gartheri: 0.45 h
... ..

Memorandum

In continuation to this office an
No: 176-79 dated 25.4.2003.

2. The six sets of proposed transfer
in favour of Municipal Council, Hamirpur for the above
mentioned purpose are sent herewith with the direction
fill-up the information in pro forma Part-II pertaining
the field and submit the following documents in next

i) List of trees coming in the area proposed
the purpose mentioned above in the subject

ii) Compensatory afforestation scheme alongwith
location map of area selected for compensatory
afforestation on survey sheet.

The complete case should reach in this
this office today positively.

411
7/5/03
S.K.K.
Aem
Gochar w
File
10/11/03
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Encl. 6 File

D.F.O. Hamirpur.

Dist: No. 758 dated 03-05-03.

Copy to Executive Officer, M.C. Hamirpur
with reference to his office letter No: 1160 dated
for information and necessary action. From the per
proposal folder it has been observed that joint
report has not been signed by him, S.D.M. Hamirpur
Executive Engineer, H.P.P.W.D. Hamirpur which may
be got done so that case can be sent to C.F. Bill
further n/act on.

प्रकाशित करवा है कि
नवावली नंबर सं. 386
दिनांक 21/7/04

Government of India
Ministry of Environment & Forests
Northern Regional Office

Section 11 A
Chandigarh
Dated: 12.07.2004

File No. 9-2104/2004-ROC/11/111

The P. Secretary (Forests)
Government of Himachal Pradesh,
Department of Forests,
Civil Secretariat,
Shimla.

Subject: Diversion of 0.65 hectare of forest land in favour of Municipal Council Hamirpur for the construction of Solid Waste Management Project at Hamirpur under Jurisdiction of Forest Division and Distt. Hamirpur, Himachal Pradesh.

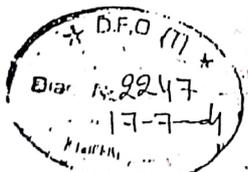
I am directed to refer to your letter no. Govt. of H.P. letter No. PFE-B-F(2)-42/003 dated 19.03.2004 & Pr. Chief Conservator of Forest letter no. F.A.R-817/2003 (FCA) dated 24.6.2004 on the above mentioned subject seeking prior approval of the Central Government in accordance with Section-2 of the Forest (Conservation) Act, 1980. It has been decided in accordance with 'in principle' approval to the above mentioned proposal subject to compliance as under:-

B-3
561
202
64

- a) Cost of compensatory afforestation as per proposed scheme may be realized from the user agency.
- b) Net Present Value (NPV) of the forest land being diverted for non forestry purpose may be realized from the user agency, as per ministry's directions issued vide letters No. 5-1798-FC (Part-II) dated 11/8/2003 and Hon'ble Supreme Court of India Order dated 30/10/2002.
- c) Confirm that no FCA violation has taken place.

The compliance on the above may be submitted at the forest land will not be allowed till final approval is recorded.

42720600
Yours faithfully,
(S:R. Aggarwal)
Dy. Conservator of Forest (Central)



1/10/04
1/11/04
1/12/04

Copy to:-
The P. Chief Conservator of Forests, H.P., Talland, Shimla-171001.
President
Municipal Council
Hamirpur (H.P.)

in principle approval has been received by the R.O.C/11/111 at 12/7/04. DPO Hamirpur provide his funds 557980 as 21/7/04 for the afforestation in 12.50,204=00 and copy of the same is sent to the P. Secretary, Shimla. J.E.P. M.M. Mehta
Keyment / amount of 377000000/-
4,27,20,600/-
From R.O.C/11/111
100 hundred and four thousand only
Please be deposit of this amount of Rs. 42,72,06,000/-
DFO Hamirpur from the account of S.W.M. project at Hamirpur. The total amount of Rs. 42,72,06,000/-
21/7/04
Buddhi

19/7/04
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25/7/04
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27/7/04
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29/7/04
30/7/04

Encl. No. 5679-80

2

Copy inclosure in
Office Encl. No. 4730-31 dated
05-07-2004 is forwarded to

✓ V Executive Officer, Municipal
Committee, Harnipur for
information and necessary
action. The user agency is
requested to deposit the cost
of compensatory afforestation
as proposed in the scheme Rs.
5024 and net present value
(NPV) of forest land being diverted
for non forest purpose commencing
in Rs. 37700/- at an early
date, please.

2) Range Officer, Harnipur of
information and further necessary
action. He is directed to confirm
that no FC violation has
taken place.

Received
Date: 20/7/04
D/O: Harnipur

File No. 01722004134

CHD

भारत सरकार
पर्यावरण एवं वन मन्त्रालय
New Delhi

फाइल नम्बर-9-2104/2004-आर.ओ.सी.
लोक में.

वन एवं वन्यजीव संरक्षण विभाग,
सिविल सचिवालय, शिमला-171002

Handwritten signature and initials

विषय

Division of 0.65 ha of forest land for construction of water connection
Hamirpur under forest division and District Hamirpur, Himachal Pradesh

संदर्भ

कृपया उल्लेखित विषय से संबंधित अपने पत्र संख्या FFE-B-F(2)-42/2003 दिनांक 15.3.2004 का
संश्लेषण भी रखें एवं नोडल अधिकारी के पत्र संख्या एफ सी 48-817/2003 (FC/4) दिनांक 09.08.2004 का
विषय में (संश्लेषण) संविधान, 1000 की भाग 2 के अंतर्गत केन्द्रीय सरकार की शक्तों का उपयोग करने के लिए

राज्य सरकार के प्रस्ताव का ध्यानपूर्वक अध्ययन करने के पश्चात् उक्त उद्देश्य हेतु 0.65 हेक्टेयर का वन
उपयोग के लिए राक्षम प्राधिकारी की स्वीकृति निम्नलिखित शर्तें पूरी करने पर नष्ट की जाती है -

1. वन भूमि की विधिगत परिस्थिति बदली नहीं जाएगी।
2. प्रस्तावित वन्यजीव संरक्षण विभाग के अंतर्गत, DPF L-438 Deoghar में प्रस्तावित क्षेत्रों से प्रस्तावित क्षेत्रों से 50 मीटर की दूरी बनाए रखनी होगी।
3. हजार दो री वन भूमि की सीमा से 1.50 मीटर की दूरी बनाकर निम्नलिखित परिधि बनाई जाएगी।
4. जमीन के तिथि से एक वर्ष के अन्दर ही जान बूझा जाए।
5. वन भूमि का उपयोग प्रस्तावित उद्देश्य के अलावा अन्य किसी उद्देश्य के लिए नहीं किया जायेगा।
6. यदि कोई अन्य संबंधित अनुच्छेद/नियम/माध्यम आदेश/अनुदेश आदि इस प्रस्ताव पर लागू होते हैं तो उनका पालन करना आवश्यक होगा।

मन्त्रालय इस स्वीकृति को अंतिम/रद्द कर सकता है यदि उपरोक्त शर्तों में से किसी भी शर्त का उल्लंघन किया जाये।
राज्य सरकार वन विभाग के माध्यम से इन शर्तों का पालन सुनिश्चित करेगी।

RIE

Official stamps and handwritten numbers: 2737, 21-07-04

प्रतिलिपि:-
1. प्रधान मुख्य वन संरक्षक, हिमाचल प्रदेश, काशी, शिमला 171001.
2. निदेशक (एफ.सी.), पर्यावरण एवं वन मन्त्रालय, पर्यावरण अथवा सी.जी.ओ. कार्यालय, लोदी रोड, नई दिल्ली।

Amexuse-1D

Page of Total Page 252

2021-22

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क्र.सं.	वर्ग	संग्रहित व देवता	संग्रहित व देवता	संग्रहित व देवता	संग्रहित व देवता			संग्रहित व देवता	संग्रहित व देवता	संग्रहित व देवता
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1	2	केदार (222)	केदार (222)	केदार (222)	759	763	0-82-47	759	765	0-10-82
2	3	केदार (222)	केदार (222)	केदार (222)	760	765	0-10-82	760	765	0-10-82
3	4	केदार (222)	केदार (222)	केदार (222)	760	765	0-10-82	760	765	0-10-82
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5	6	केदार (222)	केदार (222)	केदार (222)	760	765	0-10-82	760	765	0-10-82
6	7	केदार (222)	केदार (222)	केदार (222)	760	765	0-10-82	760	765	0-10-82
7	8	केदार (222)	केदार (222)	केदार (222)	760	765	0-10-82	760	765	0-10-82
8	9	केदार (222)	केदार (222)	केदार (222)	760	765	0-10-82	760	765	0-10-82

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2916
13/12/23

Date: 13-12-2023

Ref: STL/2312182

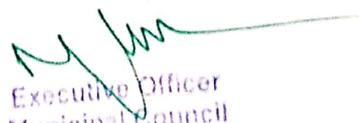
Clearance Report

Biomining of Legacy Waste, 763.275 Tons from 24-10-23 to 12-12-23 has been carried out vide work order No. 2757/MCH, Dated:16-02-23.

An estimated output of 530 Tons of Good Earth & Inert and 75 Tons of C&D Waste is partially utilized for land levelling & preparation within the site and balance is stored at an earmarked spot having no underneath legacy waste; to be used in formation of SLF after complete clearance of site; as per the guidelines.

An estimated output of 110 Tons of RDF recovered from legacy waste; of which nearly 32 Tons have been sent to power generation units for scientific disposal; as per guidelines.

SUNTAN LIFE
Team Suntan Life
Prop.


Executive Officer
Municipal Council
Hamirpur (H.P.)

383

Account - F P

No.14-B/ 518

/MCH/2021

Regd

Office of the Municipal Council Hamirpur

From

The Executive Officer,
Municipal Council,
Hamirpur.

To

HP.State Pollution Control Board
Phase-IV Rakkar Colony,
Tehsil & Distt Una (HP)

Dated: Hamirpur, the 22/06/ 2021.

Subject:- Regarding renewal of consent to operate of the State Board under the provisions of water (Prevention & Control of Pollution) Act, 1974 .

Sir,

With reference to your letter No.: HPSPCB/RO/Una/MC Hamirpur/2021: 216 dated 03-06-2021 on the subject cited above.

It is submitted for your good self that the Demand Draft No. 004025 dated 19-06-2021 amounting RS.15000/- has been enclosed here with for ready reference and further necessary action. Receipt of same please.

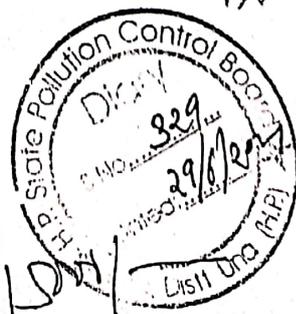
put by the [unclear] after fee receipt.
M.O

Yours faithfully,

[Signature]
Executive Officer
Municipal Council
Hamirpur.
BR

FR.
ACE
JEETU
JA.
clerk
[Signature]
24/6/2021

[Signature]
29/06/2021



Ratio. 01/5066 dt 9/7/21
cut to 2.15001
R40 2021-22 to 25-26



H.P. STATE POLLUTION CONTROL BOARD
Regional Laboratory, Him Parivesh Bhawan, Near GSSS, Darl, Dharamshala
Distt. Kangra (H.P) 176057. Phone 01892-222478

Website: <http://hppeb.nic.in>

e-mail: peblabjassur@gmail.com

Report No.
Date of Sample Received
Location of the Sample

A-150

21.10.2021

M/s Executive Officer, MC Hamirpur (Compst Sampl of MSW
Facility Hamirpur)

Method of Analysis

IS-2488 (I-V), IS-3025 (Part 44): 1933, "Standard Method for the Examination of Water & Waste Water," 22nd edition prepared & published jointly by:- 1. American Public Health Association. 2. American Water Works Association. 3. Water Environment Federation.

Sr. No.	Parameter	Results	Unit	Sr. No.	Parameter	Results	Unit
1.	pH	8.39		24.	TC	-	mg/l
2.	Conductivity	-	µmhos-cm-1	25.	FC	-	mg/l
3.	TDS	-	mg/l	26.	Mercury (Hg)	ND*	mg/kg
4.	TSS	-	mg/l	27.	Ammonia NH4-N	-	mg/l
5.	COD	-	mg/l	28.	Arsenic (AS)	ND*	mg/kg
6.	BOD	-	mg/l	29.	T. Alkalinity	-	mg/l
7.	Sulphate (SO4)	-	mg/l	30.	P. Alkalinity	-	mg/l
8.	NO3 N	-	mg/l	31.	Fluoride (F)	-	mg/l
9.	Chloride (Cl)	-	mg/l	32.	Sulphide	-	mg/l
10.	Temperature	-	°C	33.	Boron	-	mg/l
11.	Total Iron (Fe)	647.7	mg/kg	34.	Total Solids	-	mg/l
12.	Total Hardness	-	mg/l	35.	Total Chromium	32.3	mg/kg
13.	Chromium (Cr+6)	-	mg/l	36.	Phenol	-	mg/l
14.	Zinc (Zn)	388.9	mg/kg	37.	Turbidity	-	NTU
15.	Copper (Cu)	11.5	mg/kg	38.	Ca	-	mg/l
16.	Cyanide	-	mg/l	39.	Mg	-	mg/l
17.	Nickel (Ni)	27.7	mg/kg	40.	Aluminium	-	mg/l
18.	Lead (Pb)	ND*	mg/kg	41.	Ca ⁺⁺	-	mg/l
19.	Cadmium (Cd)	ND*	mg/kg	42.	Mg ⁺⁺	-	mg/l
20.	Oil & Grease	-	mg/l	43.	SAR	-	mg/l
21.	Total Phosphate	-	mg/l	44.	Dissolved Oxygen	-	mg/l
22.	Na ⁺	-	mg/l	45.	TKN	-	mg/l
23.	K ⁺	-	mg/l				

ND* - Not Detected

STATE BOARD ANALYST

H.P. STATE POLLUTION CONTROL BOARD
Regional Laboratory, Him Parivesh Bhawan, Dari, Dharamshala
Distt. Kangra (H.P.), Tele. fax No.: 01892- 222478
E- mail : pclubjassur@gmail.com

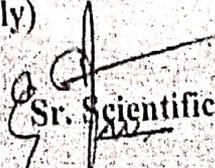
Issued to:- M/s Executive Officer
MC Hamirpur, Distt. Hamirpur

Bill No. A-150
Date 10.11.2021

Analysis charges bill of the sample analyzed Vide analysis Report No.A-150 dated 10.11.2021.

Sr. No.	Parameter	Analysis Charges (Rs.)
1.	pH	175.00
2.	Total Iron	530.00
3.	Zinc	530.00
4.	Copper	530.00
5.	Nickel	530.00
6.	Lead	530.00
7.	Cadmium	530.00
8.	Mercury	1400.00
9.	Arsenic	530.00
10	Total Chromium	530.00
Total		5815.00
Sample Collection & Transport Charges		2550.00
Processing / pre-treatment charge per sample (Metals)		880.00
Grand Total		9245.00

(Rs. Nine thousand two hundred forty five only)


Sr. Scientific Officer

(Rita Shastri Vs. M.C. Hamirpur)

(CNR No. : HPHA030007632021, Case Type: Civil Misc. Appl., Case year: 2021)

In the Court of Vishal Bhamotra, Senior Civil Judge, Court No. 1
Hamirpur, Distt. Hamirpur, HP.

CMA Regd No. : 1648 of 2021
Civil Suit Reg No : 744 of 2021
Date of Institution : 18.03.2021
Date of Decision : 11.09.2023

1. Rita Shastri wife of Balak Ram Shastri,
2. Meena Devi wife of Ashwani Sharma,
3. Sunita Sharma alias Sunita Kumari wife of Shri Rajesh Kumar
4. Kewal Krishan Sharma son of Bakshi Ram
5. Som Raj Sharma son of Riwal Chand,
6. Pawan Sharma son of Parkash Chand
7. Prem Lal son of Brij Lal
8. Sandeep Sharma son of Jeevan Dass,
9. Prita Chand son of Johgal Ram,
10. Desh Raj son of Johgal Ram,
11. Raman son of Sh. Hari Chand,
12. Madan son of Shri Hari Chand,
13. Dev Raj son of Ram Rakha,
14. Nirmla Devi wife of Desh raj,
15. Monika Sharma wife of Shri Rakesh Kumar,

All residents of Village Dugnehri, P.O. Tehsil and
District Hamirpur, H.P.

.....Applicants/Plaintiffs

-Versus-

1. Municipal Council Hamirpur, H.P through its Executive Office Hamirpur, H.P.
2. State of H.P. through District Collector, Hamirpur, H.P.

..Respondents/Defendants.

Application Under Order 39 Rule 1 and 2
of the Code of Civil Procedure Read with
Section 151 of the Code of Civil Procedure.

For Applicant : Sh. Rohit Sharma, Ld. Adv.
For Respondent No.1 : Sh. Naveen Patial, Ld. Adv.

For Respondent No.2 : Ms. Vishal Deepak, Ld ADA

ORDER.

This order shall dispose of an application under Order 39 Rules 1 and 2 of the Code of Civil Procedure read with section 151 of the Code of Civil Procedure filed by the applicants/plaintiffs against the respondents/defendants.

2. Briefly stated applicants have filed a suit for declaration, permanent prohibitory injunction and possession, with the averments that suit land comprised in Khata No. 127min, Khatuni No. 156, khasra No. 767-772 measuring 66 Kanal 11 Marla, recorded as 'Charand Maveshian' (hereinafter referred to as suit land) is subject to rights of residents of Tikka Dugnehri, since long from the time of ancestors and applicants are exercising such rights over the same, which are recorded as such in Wajib-ul-arz. Respondents in Connivance with each other and to cause wrongful loss to the applicants and other Baratandarans, got entered wrong entry in the remarks of Jamabandi for the suit land that the same is under allottable pool, whereas the suit land is recorded under the Bharatandari rights of the applicant and other Tikadarans. Change in the entry is without notice or information to the applicants and other Tikadarans and without any order of the competent authority. Hence the revenue entries for the suit land do not carry any legal value and liable to be declared void. Presently Tikka concerned is under settlement operation and applicants have acquired the knowledge that Respondent number 1 has acquired the portion of the suit land by way of constructing/installing solid waste management plant for which already the Applicant number 1 had filed petition before National Green Tribunal New Delhi. However no land had been transferred by Respondent number 2 in favor of Respondent number 1 in accordance with law. Activates of respondents are creating nuisance in grazing fields and also disturbing irrigational facilities. In the first week of March 2021 Respondent number 1 started digging and

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collecting material so as to raise construction over the suit land adjacent to the plant despite objection and protest of the applicant and other Tikadarans. Despite repeated requests, respondents are adamant, hence the present suit as well as application. With these averments the present suit has been filed, which is duly supported by an affidavit and it is prayed that suit be decreed with costs.

3. In this suit, application under order 39 Rule 1 and 2 of CPC read with section 151 of CPC has been filed by the plaintiffs/applicants wherein the applicants have averred that a prima facie case has been made out in their favour and balance of convenience is also lies in their favour and they are likely to suffer irreparable loss if the respondents are not immediately restrained from their illegal and mischievous designs. The present application is duly support by an affidavit.

4. Notice of the suit as well as application served upon the respondents and the respondents/defendants appeared before the court and resisted and contested the suit as well as application by filing separate sets of written statements and replies.

5. In written statement filed by the respondents/defendants, preliminary objection of suit not maintainable, no cause of action, estoppel, were taken. On merits, status of the parties qua the suit land as well as description of the same not disputed. However remaining entire contentions including the cause of action as raised in the suit as well as application are denied categorically. It is contended that suit land is recorded as "Reserve Pool" and respondent No. 1 has installed Solid Waste Treatment Plant in the year of 2004 for the benefit of public at large and functioning as such for last 15 years. With these averments, the present written statement filed which is duly supported by an affidavit. The cause of action also denied and it is prayed that the suit be dismissed with costs.

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6. In answer to the written statement, no replication has been filed by the plaintiffs.

7. In answer to the application under Order 39 rule 1 and 2 of the CPC read with section 151 of CPC, respondents have also filed replies in which it is alleged that the application does not disclose any prima facie case or irreparable loss to the applicants. The balance of convenience lies in favour of respondents and it will be the respondents who are suffering at the hands of applicants. With these averments, the present replies are filed, which are duly supported by an affidavit, and it is prayed that the application be decided accordingly.

8. In answer to the reply, rejoinder has been filed by the applicants.

9. I have heard the respected members at bar and have also gone through the record with utmost care and caution.

10. So far as the averments as contained in the plaint as well as written statements are concerned, admittedly, the suit land is recorded as "Reserve Pool" for the utilization in the interest of public at large. All the necessary measures are being taken care of while using the plant. It is also an admitted fact that respondent No. 1 has already installed the Solid Waste Management Plant over the suit land.

11. So far as the allegations and counter allegations are concerned, admittedly, the parties to the suit as well are in joint possession over the suit land which has yet not been partitioned in accordance with law. Jamabandi qua the suit land placed on record also support this fact that the suit land has not yet been partitioned. The applicant has pleaded that without the consent of the applicant and other co-sharers, respondent is adamant in raising construction over the suit land. Though, the said allegations were categorically denied by the respondent while contesting the suit as well as application. So far as the allegations and counter allegations are

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concerned, same are required to be proved by the parties by leading cogent and convincing evidence, which will take time, however, till then it is necessary to protect and preserve the suit property from being wasted. At this stage, with the averments as made in the plaint coupled with affidavit and Jamabandi qua suit land, the applicant has succeeded in passing the triplicate test of prima facie case, balance of convenience and irreparable loss and injury.

12. At this stage, some arguable points have been raised by the plaintiff/applicant before the court, which needs determination by the court, hence, it can be concluded safely that the applicant has got a prima facie case in his favour. As far as question of irreparable loss and injury is concerned, I feel that if the respondent is not restrained from making any construction over joint property till the same is not partitioned, it is the applicant, who shall suffer irreparable loss and injury which cannot be compensated in terms of money. At this stage, balance of convenience also lies with the applicant. While deciding this application I placed reliance on **AIR 1982 Guwahati, 69, case titled as Bindeshwar Narayan Singh and others Vs Managing Committee, Shri Sundarmal Hindi High School and others.**

"It is true that the court will not so interfere if it thinks that there is no real question between the parties, but assuming that there is substantial question to be decided, it will preserve the property until such question can be regularly disposed of. The court should grant the temporary injunction if the effect of not granting such an injunction will be to deprive the plaintiff for ever of the right claimed by him in the suit."

13. It was also held in Jyoti Prakash Vs. Kamal Kant AIR 2011, H.P 17 by our Hon'ble High Court of H,P that:

"Purpose of granting temporary injunction is to ensure that during the pendency of the suit, suit property is protected."

14. Hence, in view of discussion made above, it is a fit case where both the parties can be directed to maintain status quo qua nature and possession over the **vacant suit property** till final disposal of main suit. Hence, the present application is allowed and both the parties to the suit as well as application are directed to maintain status quo, qua nature and possession over the **vacant suit land** till final disposal of main case or partition.

15. Before parting with the order, it is made clear that observations made hereinafter above shall not be construed as expression of opinion about the merits of the case. The application stands disposed of accordingly. It be tagged with the main case file.

Announced and signed in the open court today the 11th day of September, 2023.

Vishal Bhamnotra,
Senior Civil Judge,
Court No. I, Hamirpur HP

From No . SWM Project / 119 / MCH / 2021 Dated 17/4/2021
The Executive Officer,
Municipal Council,
Distt. Hamirpur.

To
The Deputy Commissioner ,
Hamirpur , Distt. Hamirpur (H.P.).

Subject:- **Diversion of 0.65 hectare of Forest land in favour of Municipal Council Hamirpur for the construction of Solid Waste Management Project at Hamirpur under jurisdiction of Forest Division and Distt. Hamirpur , Himachal Pradesh .**

Madam

With reference to Pr. Chief Conservator of Forests H.P. Shimla -1 vide letter No Ft. 48-817/2003 (FCA) dated 9-8-2004 and endorsed to DFO Hamirpur even No 4493 dated 28-7-2004 . The M.C Hamirpur made payment amounting to Rs. 4,27,204 /- vide cheque No. 023201 dated 21-07-2004 in the office of Divisional Forest Officer . Hamirpur vide M.C. letter No. 18-B/Part Case SWM Project / 2599/MCH/2004 dated 21-07-2004(i.e. The Cost of compensatory afforestation amount is Rs. 50,204 /- and Cost of forest land amount is Rs. 3,77,000/-) and approval letter of forest department on the subject matter . The photo state copies of above mentioned letters are enclosed herewith for favour of information in this regard .

It is added for your kind information that the Solid Waste Management Project was constructed at Dughneri place in the Forest land during the year 2004-2005 and same was inaugurated by then Hon'ble Chief Minister of Himachal Pradesh on dated 22-10-2005 . Which land is to be transfered in the name of Urban Development Department / Municipal Council Hamirpur . SWMP is functional w.e.f. 22-10-2005 till today . The Bailing Machine , Trommel Machine and shreader Machine are installed at Solid Waste Management Project . The seventy five number of Honey Comb Pits were constructed in the SWM Plant for composting of bio- degradable waste into manure . M.C has constructed bath room and toilets there and electrical bore well has been constructed at SWMP . A beautiful park was also constructed there . In this way the M.C Hamirpur has been spent three crores rupees including machineries at Solid Waste Management Project Dughneri . The photographs of Machineries as well as shed and other facilities alongwith other correspondence are enclosed in this connection . The Proposed site for SWM Project drawing of field book along with khasra Nos. 767/1 , 772/1 , 772/2 , 770/1, 752/1, 753/1, 754/1, 757/1, 759/1, 760/1, 142/2/1, 138/2/1, 138/1/1 and 71/1, etc are enclosed herewith in this connection .

In view of the position narrated above, your good self is requested to kindly issue the direction to Revnue Authority regarding to transfer as well as mutation of the above said land in the name of M.C. Hamirpur / Urban Development department , which is physically in possession Municipal Council Hamirpur at your earliest .

Soliciting early action in the matter please.

Received Copy

Kan
17/4/21

D.A.:- As stated above

Yours Faithfully

Executive Officer,
Municipal Council,
Hamirpur.

No. SWM Project / 1640 / MCH / 2023 Dated 22-9-2023

From The Executive Officer,
Municipal Council,
Distt. Hamirpur.

To The Deputy Commissioner ,
Hamirpur , Distt. Hamirpur (H.P.) .

Subject:- Diversion of 0.65 hectare of Forest land in favour of Municipal Council Hamirpur for the construction of Solid Waste Management Project at Hamirpur under jurisdiction of Forest Division and Distt. Hamirpur , Himachal Pradesh .

Sir In continuation Council letter No. SWM Project / 119/MCH/ 2021 dated 17-04-2021 on the subject cited above .

It is submitted that the aforesaid matter was discussed in the house in its meeting held on 14-09-2023 and house unanimously resolved vide **Resolution No. 165 / 2023(2)** of said date . A copy of above said res: No. is enclosed herewith for favour of prejal please. The **aforesaid matter is under consideration** in your good office vide letter No. 119 dated 17-04-2021 .

Further it is submitted that Municipal Council Hamirpur forwarded FCA case to Forest deptt./ D.F.O. Hamirpur and Forest deptt. letter No. 758 dated 03-05-2003. Copy attached Annexure - A

After that Sh. S.K. Aggarwal Dy. Conservator of Forest (Central) sent letter to the Pr. Secretary (Forests) Govt. of H.P. department of forest civil Secretariat Shimla on dated 12-07-2004 and copy endst. to Municipal Council Hamirpur No. as 5679-80 regarding diversion of 0.65 hectar of forest land in favour Municipal Council Hamirpur for the construction of Solid Waste Management Project . Copy attached Annexure-B .

Municipal Council Hamirpur make the **payment to Forest deptt. regarding land as well as trees cost amounting to Rs. 4,27,204 /-** though cheque No. 023201 dated 21-07-2004 vide office letter No. 2599 dated 21-07-2004 . Copy attached Annexure- C .

Letter No. of forest deptt. Conservator of Forest (P & L) – Cum- Nodal Officer O/o Pr. CCF HP Shimla-1 addressed to the **Conservator of Forests (Central)**, GOI , MOEF , Northern Region office , Bays 24-25 , Sector – 31- A. Daskin Marg, Chandigarh – 160030 dated 09-08-2004 regarding **diversion of 0.65 Hecter** of forest land in favour of Municipal Council Hamirpur for the construction of Solid Waste Management Project at Hamirpur and cost of land as well as trees is amount Rs. 4,27,204 = 00 (i.e. Present value of forest land is Rs. 3,77,000/- and trees cost is Rs. 50,204/-) . Copy attached Anx- D

The **Forest deptt. given approval letter regarding 0.65 Hecter land to Municipal Council Hamirpur** for construction of aforesaid Project . Copy attached Anx - E

The aforesaid SWM plant was constructed during the 2004-2005 and same was **inaugurated by then Hon'ble Chief Minister of Himachal Pradesh on dated 22-10-2005** SWMP is **functional w.e.f. 22-10-2005 till today** . Many types of machineries are installed there for processing of garbage . Revenue paper of said land is enclosed herewith . Anx. F & G

In the light of above narrated facts , your good self is requested to kindly issue the direction to Revenue Authority regarding to transfer as well as mutation of the above said land in the name of M.C. Hamirpur / Urban Development department .

D.A.:- As stated above

Yours faithfully ,

[Signature]
Executive Officer,
Municipal Council,
Hamirpur.

नकल पारित प्रस्ताव क्रमांक 165/2023 दिनांक 14.09.2023

(2) कूड़ा संयंत्र प्लांट की भूमि को नगर परिषद के नाम हस्तांतरित करने वारे विचार विमर्श:-
सदन में चर्चा की गई कि नगर परिषद हमीरपुर का कूड़ा संयंत्र दगनेड़ी में लगभग 2005 से चल रहा है। यह प्लांट खसरा न0 767/1, 772/1, 772/2, 770/1, 752/1, 753/1, 754/1, 757/1, 759/1, 760/1, 142/2/1, 138/2/1, 138/1/1 71/1 व इत्यादि रकबा 0.65 हैक्टर में स्थापित किया गया है। इस प्लांट को लगाने से पूर्व नगर परिषद द्वारा सारे दस्तावेज पूर्ण कर मामला वन विभाग को अनुमोदन हेतु भेजा गया था, जिस पर वन विभाग द्वारा पूर्ण औपचारिकताओ को पूर्ण देखते हुये इस कूड़ा संयंत्र को दगनेड़ी में लगाने की अनुमति प्रदान की थी। जिसकी एवज में नगर परिषद द्वारा मुबलिंग 4,27,204/-रुपये की राशि वन विभाग को जमा करवाई गई थी लेकिन यह भूमि नगर परिषद के नाम हस्तांतरित नहीं हुई है।

अतः इस प्रस्ताव के माध्यम से उपायुक्त महोदय हमीरपुर से अनुरोध है कि उपरोक्त भूमि को नगर परिषद के नाम हस्तांतरित करने की अनुकम्पा करें।

नकल मुताविक असल है।


Executive Officer
Municipal Council
Hamirpur (H.P.)

हस्ता0

प्रधान,
नगर परिषद हमीरपुर