

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

OA No. 325/2024

IN THE MATTER OF:

Sahdev Thakur & Others

.....Applicants

VERSUS

State of Himachal Pradesh and Others

.....Respondents

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Respondent No. 4

Dated: 20.05.2024

Place: Shimla

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OA No. 325/2024

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**REPLY TO ORIGINAL APPLICATION
ON BEHALF OF RESPONDENT NO. 4 i.e.
HP STATE POLLUTION CONTROL
BOARD.**

MAY IT PLEASE YOUR LORDSHIPS

1. That the contents of para-1 relating to residential status & addresses of the applicants and their entitlement to file present OA are a matter of record.
2. That the contents of para-2 relate to HPTDC and its intention to construct a hotel complex. However, there is no connivance with the State Board, as alleged. Rest of the contents pertains to and call for reply of Sericulture Department i.e. respondent No. 12.
3. That the contents of para-3 relating to Sericulture activity, neither pertains to nor need reply from the State Board.

ATTESTED

410 In reply to paras 4-10, it is submitted that the alleged issue of construction of tourism hotel pertains to Town & Country Planning Department which needs to be arrayed as

COMMISSIONER

**Member Secretary,
HP State Pollution Control Board
Shimla**

party/respondent in the matter and calls for their reply. However, as per the report of Regional Officer, HPSPCB, Hamirpur (**Annexure R-4/1**), the inspection of the site/area in question was conducted on 16.04.2024 by the officials of State Board. Reportedly, no representative from the HPTDC was present at site whereas, labourers & workers of the concerned contractors were present. During inspection, it was observed that some land development activities for establishing a tourism unit have been done by HPTDC on the land/area in question at Village Seri, P.O. Nadaun, District Hamirpur, H.P.

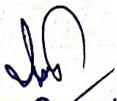
Further, during inspection, the excavation work was found to have been done and foundation work for the construction of proposed building was in progress, which has been undertaken by the HPPWD, Nadaun. Rest of the contents of para regarding apprehension of applicants relate to Sericulture, Forest Department, State Ground Water Authority and Town & Country Planning Department. However, a notice dated 24.04.2024 (**Annexure R-4/2**) has been issued to the District Tourism Development Officer (DTDO), Hamirpur to seek Consent of the State Board under the provisions of the Water Act, 1974 and Air Act, 1981 as it is required while initiating the development activity/construction work of the proposed Tourism unit.

11 That the contents of paras 11 are based on conjectures and surmises and relate to the State Government.

12 That the contents of para-12 relate to the applicant's contentions for shifting and translocation of the said proposed building, which pertains to HPTDC and do not pertain to State Board. Further, the alleged issue of Environment Impact

ATTESTED

12
NATH COMMISSIONER



Member Secretary,
HP State Pollution Control Board
Shimla

Assessment pertains to the competent authority i.e. HP State Environment Impact Assessment Authority (HP SEIAA) which has not been arrayed as party in this matter.

13. That the contents of para-13 relate to preservation of mulberry plantation which pertains to Sericulture Department.
- 14 (A) That the grounds taken in para- 14 (A), already stand controverted in view of the submissions made in detailed reply supra. The averments made by the applicants regarding alleged violations of Environment Protection Act, 1986 are vague and do not specify which procedure & rule has been violated, as alleged. However, a notice dated 24.04.2024 (at **Annexure R-4/2**) under Water Act, 1974 and Air Act, 1981 has been issued to the District Tourism Development Officer (DTDO), Hamirpur to seek Consent of the State Board.
- (B) That the grounds taken in para 14 (B) pertains to and calls for reply of the HP State Environment Impact Assessment Authority (HP SEIAA) which has not been arrayed as necessary party in this matter.
- (C) That the grounds taken in para 14 (C) pertains to the Sericulture Department & H.P. Ground Water Authority and need no reply from the State Board.
- (D-F) That the grounds taken in para- 14 (D-F), pertains to and calls for reply of Forest Department and do not pertain to the State Board.
- (G-H) That the grounds taken in para 14 (G-H) relate to construction of a building which call for reply of HPTDC and T & CP Department.

TESTED
R
AT COMMISSIONER

Member Secretary,
HP State Pollution Control Board
Shimla

15. That the applicant's averments made in para-15 are that work on project is underway whereas, in Ground (para-G), applicants have pleaded that the construction at proposed project site has not yet begun. Hence, stand of the applicant is contradictory so, instant OA deserves to be dismissed.
- 16 (a-i) That the applicants are not entitled for any reliefs/directions as claimed in para 16 (a-i) qua the State Board in view of submissions made in the paras supra.

Prayer:-

In view of submissions made above, it is humbly submitted that in the light of the facts and circumstances stated herein above, the instant OA may kindly be disposed of qua the respondent Board. Any other order deemed fit by this Hon'ble Tribunal may kindly be passed in public interest.

Dated: 20-05-2024
Place: Shimla

Respondent No. 4

Member Secretary,
HP State Pollution Control Board
Shimla

ATTESTED
OATH COMMISSIONER

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

OA No. 325/2024

IN THE MATTER OF:

Sahdev Thakur and Others

.....Applicants

VERSUS

State of Himachal Pardesh and Others

.....Respondents

AFFIDAVIT

I, Anil Joshi, son of Sh. Ram Datt Joshi, aged about 57 years, presently, working as Member Secretary, H.P. State Pollution Control Board, Shimla, Himachal Pradesh, do hereby solemnly declare and affirm on oath as under: -

1. That the accompanying reply to OA has been drafted at my instance and under my instructions.
2. That the contents of paras 1-16 of reply are true and correct to the best of my knowledge, derived from official record, no part of it is false and nothing material has been concealed therefrom.
3. I further affirm that the contents of this affidavit of mine are true and correct to my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

Verified at Shimla on 20th day of May, 2024.

Verified that the above-mentioned person is duly qualified to be sworn in before me on solemn affirmation on this day of 20th at Shimla in the District of Shimla by me who was identified by ALD who is personally known to me and the contents of this affidavit have been read over & explained to the deponent in vernacular who admitted them to be correct and true at the time of making thereof.

Oath Commissioner
HP High Court, Shimla

All Cuttings and Corrections
are duly attested by me.

Oath Commissioner

DEPONENT

Member Secretary,
HP State Pollution Control Board
Shimla

ANNEXURE R- 4/1

Inspection report

This is in reference to the HPSPCB's head office letter No. 311 dated 10.04.2024 reg. Hon'ble NGTs order dated 21.03.2024 passed in OA No. 325/2024, titled as Sahdev & Ors. Vs. State Of H.P. & Ors. In this regard, an inspection of the site in question was conducted on 16.04.2024 and no representative from the H.P. Tourism Development Corporation (HPTDC) was present at the site however, labourers/workers of the concerned contractor were present at the time of inspection. During such inspection, it was observed that some land development activities for establishing a tourism unit have been done by HPTDC on the land/area in question at Village Seri, P.O. Nadaun, District Hamirpur.

Further, the excavation work was found to have been done and foundation work for the construction of proposed building was found in progress. On investigation, it was found that the project has not obtained the mandatory 'Consent to establish' from the State Board before starting the said construction work of the proposed building. Consequently, during the course of inspection, the matter regarding Consent was conveyed to HPTDC Hamirpur, telephonically and it was directed to comply the provisions of Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974 and asked to obtain mandatory prior consent from the State Board for the construction of the proposed building. Moreover, Mulbury Plants were also found at small piece of land at alleged location. Photographs of the site are also enclosed with the inspection report for the reference.

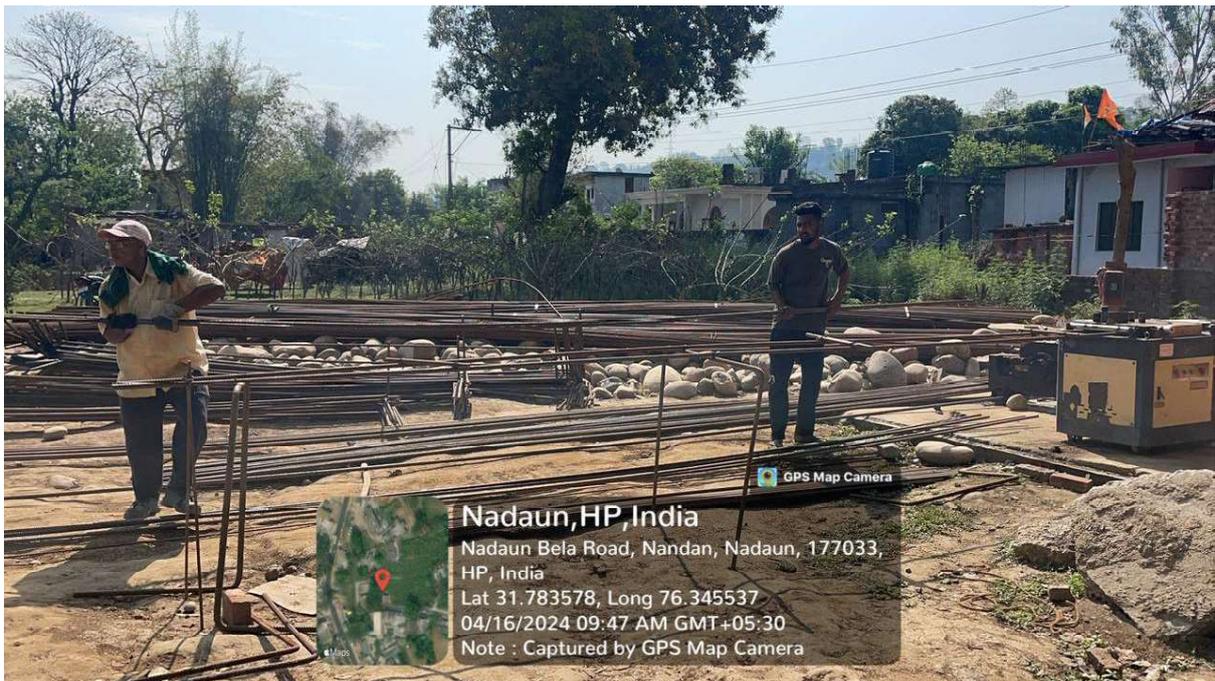


Er. Rahul Sharma
JEE, HP State Pollution Control
Board Regional Office, Hamirpur (H.P.).



Er. Pradeep Moudgil
AEE- Regional Officer,
HP State Pollution Control Board
Regional Office, Hamirpur (H.P.).

Photographs of the site: 16.04.2024







H.P. STATE POLLUTION CONTROL BOARD

Office: Bhoti Chowk Hamirpur, Tehsil & Distt-Hamirpur, Pin-177001 (H.P.)
Website : <http://www.hppcb.nic.in> e-mail : pcbhamirpur@gmail.com



No. PCB/RO/HMR/NGT Court Case/2024 /- 22 - 23
To

Date: 24.04.2024

The District Tourism Development Officer (DTDO),
Hamirpur, Tehsil and Distt Hamirpur
(HPTDC Hamirpur)

Subject: Notice under the Water (Prevention and Control) Act, 1974, Air (Prevention and Control) Act, 1981.

This is in reference to the letter received from head office vide letter No. PCB-OA No. 325/2024- 311 Dated 10.04.2024, reg. Hon'ble NGTs order dated 21.03.2024 passed in OA No. 325/2024, titled as Sahdev&Ors. Vs. State Of H.P. &Ors. pending therein. In this context, the site was inspected by the board officials on 16.04.2024 and observed that construction of project/hotel has been started. As the excavation and foundation work is in progress at the alleged site.

Whereas, the construction/establishing unit/Hotel without obtaining prior mandatory Consent of the State Board is tantamount to violation of the section 25 & 26 of the Water (Prevention & Control of Pollution) Act, 1974 rendering you liable for action as provided in section 41,42 and 44 of the Water (Prevention and Control of Pollution) Act, 1974 attracting with fine (s) up to Rupees Ten thousand or as the case may be.

Whereas in addition to above, unit would also be liable to regulatory action under section 33-A of Water (Prevention & Control of Pollution) Act, 1974 which provides (a) the closure, prohibition or regulation of any industry, operation or process; or (b) the stoppage or regulation of supply of electricity, water or any other service.

However, before proceeding against you, you are hereby afforded an opportunity to comply the provisions of aforesaid acts and immediately apply online Consent to Establish through website <https://www.hpocmms.nic.in> along with the requisite fees and following documents:

1. Provisional Certificate of Tourism.
2. NOC of TCP.
3. Project Report.
4. Project Map
5. Detail of Pollution Control Devices (PCDs)
6. Feasibility report of PCDs.
7. Land Documents.

You are also directed to not to resume the construction/establishing activity without obtaining the prior consent of the state board and further directed to comply with above direction with in within 15 days. Please note that in the event of failure to comply with above directions, the state board is bound to initiate the penal and legal actions stated above at your risk and cost.

[Signature]
Er. Pradeep Moudgil
AEE, RO Hamirpur, HPSPCB.

Copy to:

1. The Executive Engineer, HPPWD division Nadaun for favour of necessary information and compliance with the directions issued by Hon'ble NGT in above said O.A.No.

[Signature]
Er. Pradeep Moudgil
AEE, RO Hamirpur, HPSPCB.

[Signature]