

NGT Matter

No.S RM-DEV.(NGT ORDER O.A. 127/2024)-2763
 Office of the Deputy Commissioner, District Sirmaur (H.P.)
 Dated, Nahan the 08 April, 2024

To

The Registrar,
 Hon'ble National Green Tribunal,
 New Delhi

Subject:- Compliance of order dated 06.02.2024 passed by the Hon'ble NGT in OA No. 127/2024 titled Naathu Ram V/s Ministry of Road Transport and Highways & Ors. pending before the Hon'ble NGT, New Delhi.

Sir,

This is in reference to the subject matter cited above. In this context, the spot inspection was carried out by joint committee on 12.03.2024 and 21.03.2024. The joint inspection report of the committee is attached herewith for information and further necessary action, please.

Encl. As above

Yours faithfully,


 (Sumit Khimta) IAS
 Deputy Commissioner,
 District Sirmaur (HP)

Endst. No. as above 2763 Dated, Nahan 8.4.24
 Copy forwarded to:

1. Additional Secretary (Env. Sci. Technology & CC) to the Govt. of H.P. w.r.t. your office letter No. STE-E (3)-5/2022 dated 04.03.2024 alongwith copies of joint committee spot inspection report for information and necessary action please.
2. The Member Secretary, HPSPCB Shimla w.r.t HPSPCB letter No.15849-54 dated 22.02.2024 alongwith copies of joint committee spot inspection report for information and necessary action please.


 Deputy Commissioner,
 District Sirmaur (HP)
 Respondent No.6

**PROGRESS REPORT OF THE JOINT COMMITTEE FOR DISTRICT
SIRMAUR IN O.A. NO. 127/2024 TITLED AS NAATHU RAM V/S
MINISTRY OF ROAD, TRANSPORTATION AND HIGHWAYS & ORS.**

1. Background and the Orders of Hon'ble National Green Tribunal:

The matter is related to an Original Application filed before the Hon'ble National Green Tribunal, wherein a grievance has been raised against construction in the Shivalik range of Himalayas ending up to a length of 97/103.55 Kms in the State of Himachal Pradesh undertaken by the Ministry of Road Transport and Highways in the process of two-lane upgradation with the paved shoulders of the existing single lane Paonta Sahib-Guma Section at National Highway No. 707. The allegation of the Applicant is that during road widening and upgradation process, contractors are destroying the Himalayan ecology and natural vegetation and that they are breaking and cutting the hills on one side of the road and throwing the debris (including boulders, stones, dust, etc.) on the steep hill on the other side of the road in the valley. As per the allegation, the entire hilly area on the length of 97 km on the downside slope is getting destroyed, which includes natural vegetation, river streams, habitations, wildlife, etc. It is also alleged that crores of trees including Pine and Deodhar have been destroyed and thousands of minor and 1 major river streams have either been covered up with debris or have changed their course.

It was observed and directed by Hon'ble National Green Tribunal vide Order dated 06/02/2024 (**Annexure-I**), as follows:

- “...3. The OA raises substantial issue related to compliance of the provisions of the scheduled enactments,*
- 5. Considering the grievance raised in the OA, we also deem it proper to form a Joint Committee comprising of the representative of the Member Secretary, Central Pollution Control Board (CPCB), Regional Officer, Ministry of Environment, Forests and Climate Change (MoEF&CC), Chandigarh, Member Secretary, Himachal Pradesh State Pollution Control Board (HSPCB), Deputy Commissioner Sirmour and deputy Commissioner, Shimla. The Deputy Commissioners will act as nodal agency for co-ordination and compliance in the Committee.*
 - 6. The Joint Committee will carry out the spot inspection, ascertain the truthfulness of the allegations made in the OA and submit the factual and action taken report at least one week before the next date of hearing....”*

2. Compliance of the orders of Hon'ble National Green Tribunal:

2.1. Constitution of the Joint Committee:

In compliance to the orders of Hon'ble National Green Tribunal, a Joint Committee comprising of the following members was constituted for District Sirmour:

SN	MEMBERS OF JOINT COMMITTEE
i.	Shri L.R. Verma, HAS, ADM, Nahan (Member nominated by DC, Sirmour)
ii.	Dr. Anup Das, Scientist 'B', MoEF&CC (Member nominated by MoEF&CC, Sub Office, Shimla (IRO, Chandigarh)
iii.	Dr. Narender Sharma, Scientist 'F', CPCB, RD, Chandigarh (Member nominated by Member Secretary, Central Pollution Control Board, Delhi)
iv.	Er. Atul Parmar, Regional Officer, HPPCB, Paonta Sahib (Member nominated by Member Secretary, HPPCB, Shimla.

2.2. Site Inspection:

The Joint Committee conducted spot inspection of 95 Km length out of total 97 Km length of the NH 707 Section from Paonta Sahib to Gumma Section (Km 0.00 to Km 97.00), the Section pertaining to District Sirmour in Original Application No 127 of 2024, on 12/03/2024 and 21/03/2024.

Both the applicant and representatives of MoRTH, Forest Department and Mining Department were also associated by the Joint Committee during spot inspections. The attendance sheets are attached as **Annexure-II**.

2.3. Comments/Report by Individual Members of the Joint Committee:

Subsequent to the Spot Inspection, the individual members were requested to submit their signed comments/report by the Nodal Agency vide Email of HPSPCB, RO, Paonta Sahib vide email dated 03/04/2024 (Copy attached as Annexure-III). The comments/Report submitted by the individual members is reproduced in the following sections:

3. Comments/Report by Representative of Central Pollution Control Board.

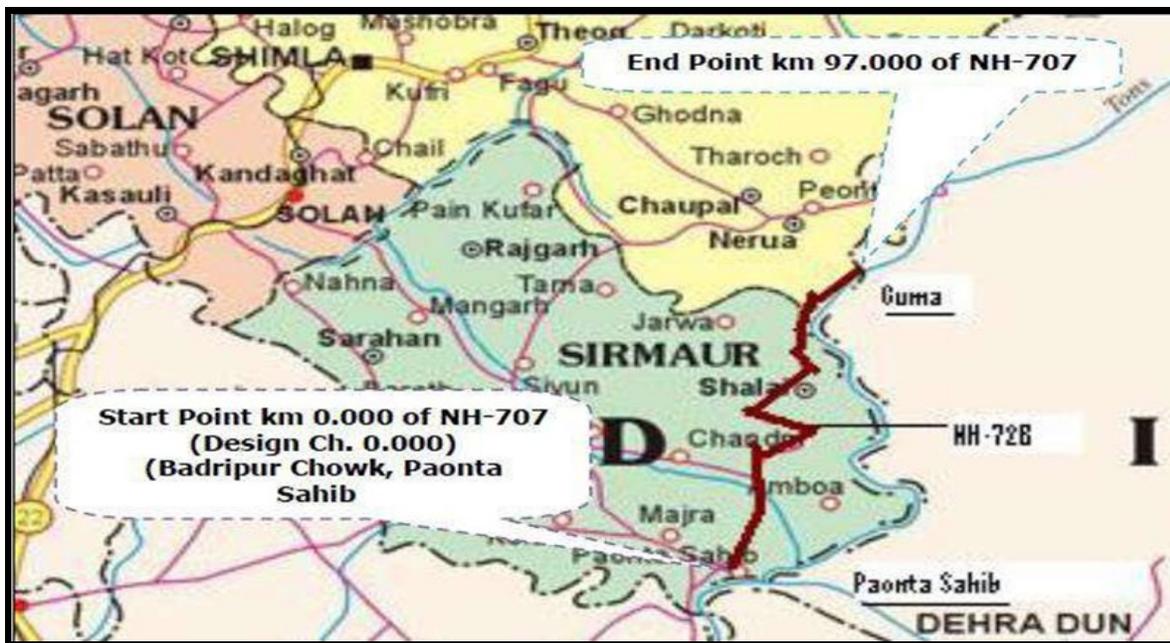
The signed copy of Report/Comments submitted by CPCB Member is enclosed as **Annexure-IV** and detailed below.

3.1 Factual Report and the Truthfulness of the Allegations made in the Original Application:

The Joint Committee was directed by Hon'ble National Green Tribunal to ascertain the truthfulness of the allegations made in the Original Application and submit the factual report.

3.1.1. Allegations made in the Original Application:

The examination of Original Application filed before the Hon'ble National Green Tribunal indicated that the grievance of the applicant is with respect to Paonta Sahib- Guma section at National Highway No. 707 in the State of Himachal Pradesh starting from Badripur Chowk (Start Point Km 0.000 NH 707) to Guma (End Point Km 97.000 NH 707) as shown in the following Figure 1 attached in the Original Application.



In the Original Application, the following major allegations have been made:

Para 5: That the Road contractors were supposed to collect the entire hill cut debris and dispose it off as per the approved waste management plan at the assigned dumping sites. However contrary to this, just to save the cost of collection and transportation, these contractors are disposing the hill cut material illegally into the hill slopes of entire 97 km section of road and in the river streams, natural springs and small drainage of the river Giri, Tons and Minus river thus obstructing and changing their course.

Para 6: That the Project contractors have been assigned 15 dumping locations which are private land to dispose of around total 1 million cubic metres which is being generated in the

project area. That however, the road contractors in order to save the cost of transportation, had illegally created thousands of unauthorised dumping grounds, be it river streams, natural forests, hill slopes, etc, located over the entire 97 km section of Poanta Sahib-Gumma Section of the NH 707 High way. It is submitted that since specific sites have been designated therefore no muck dumping can be undertaken beyond the designated sites.

Para 7: That the project further has taken the advantage of Item 7(f) of the EIA notification 2006, by segmenting the NH 707 into smaller segments and bring it to less than 100 km and thus avoided the requirement of Environment Clearance. That the entire project has been sanctioned under the Green National Highways Corridor Project (GNHCP) with the loan assistance of World Bank. That as per the Applicant, the project is actually for length of 103.55 km from Paonta Sahib to Gumma to Fediz Section of NH 707. The Applicant has accessed one document from Ministry of Road 18 Transport and Highways which says that the length of the project is 103.55 km.

Para 8: That, further the project is passing through reserved forest areas in Paonta Sahib and Renuka Divisions and the wildlife including the *Panthera pardus* (Leopard), which is of vulnerable category and placed in Schedule I of the Wildlife Protection Act 1972, however there is no regard for the forest area and wildlife and same is being destroyed in most casual manner. That no permission for diversion of forest land has been obtained by the construction companies for using the hill slopes having natural forest and rich biodiversity, for the purpose of dumping the muck and debris.

Para 11: That muck has killed many of the fishes and with the river stream getting choked created problems of water supply in the region.

Para 12: That the project has not taken any permission for illegal felling of trees across the hill slopes and such trees include blue pine at lower elevations, while spruce and silver-fair at the higher elevations and also include Deodar trees.

Para 15: That the act of the construction companies is violative of various environmental laws including the Forest Conservation Act 1980, Environment Protection Act 1986, Construction & Demolition Waste Management Rules 2016, the Water (Prevention & Control of Pollution Act) 1974, the Bio Diversity Act, 2002 amended from time to time.

The allegations made by the applicant may be categorized in the following categories:

1. Avoidance of Requirement of Environmental Clearance by taking the advantage of Item 7(f) of the EIA Notification 2006
2. Permission not taken for diversion of forest land for passing through reserved forest areas in Paonta Sahib and Renuka Divisions
3. Illegal felling of trees across the hill slopes.
4. Damage to natural sources of drinking water (rivulets) by filling with debris.
5. Illegal use of Gelatin in explosives, for road construction.
6. Muck dumping beyond the designated sites and the violation of Construction & Demolition Waste Management Rules 2016.

The point-wise report on the facts and truthfulness of the above allegations made in the Original Application, based on the spot inspection, examinations and analysis of the documents made available to the Joint Committee is submitted as under:

3.2.1 Avoidance of Requirement of Environmental Clearance by taking the advantage of Item 7(f) of the EIA notification 2006:

The NH-707 under reference in the Original Application is from **Paonta Sahib to Gumma Section (Km 0.00 to Km 97.00)** in the State of Himachal Pradesh. Applicant has alleged that MoRTH has segmented the NH 707 (**Total 103.55 Km**) into two smaller segments and bring it to less than 100 km for avoiding the requirement of Environment Clearance, as under:

Segment 1: Paonta Sahib to Guma (Sirmour and Shimla): **0.00-97.00 Km.**

Segment 2: Guma to Fediz (Shimla): **97.00-103.55 Km**

Total Length of the NH 707 under reference: 103.55 Km

Further, the entire road has been divided into five packages, with independent/separate contractor for each package. The Different Packages and the Right of Way (RoW) involved in each package is given as follows in **Table 1:**

Table 1: Details of Packages and RoW

Package	Package name	Chainage, Km	RoW, Meter	District
Package 1	Paonta-Hewna	0 to 25	18-32	Sirmour
Package 2	Hewna-Ashyari	25 to 50	18-26	Sirmour
Package 3	Ashyari-Shri Kyari	50 to 75	18-23	Sirmour
Package 4	Shri Kyari-Gumma	75 to 94.9	18-22	Sirmour (75-87 Km) Shimla (87-94.9 Km)
Package 5	Gumma-Fediz	94.9 -103.55	22	Shimla

According to current regulations, a prior Environmental Clearance (EC) is required if, the proposed expansion involves more than 100 km of length and additional right of way (RoW) or land acquisition greater than 40m on existing alignments and 60m on re-alignments or by-passes. Further, as per EIA Notification, 2006 and subsequent amendment dated 22.08.2013 (**Annexure-A1**), only such project which meets both the conditions, i.e., threshold length of the highway and envisaged expansion width (RoW or land acquisition) of the highway, would require a prior EC.

As depicted in the table above, because the necessary Right of Way (RoW) or land acquisition for all segments of NH 707 in question (0.00-97.00 Km and 97.00-103.00 Km) is below the 40 m threshold, the Ministry of Road Transport and Highways (MoRTH) isn't required to obtain Environmental Clearance. This holds true even if the total length of 103.55 Km isn't segmented as alleged, to reduce it to less than 100 Km. Consequently, there appears to be no requirement for MoRTH to segment the highway to circumvent the need for Environmental Clearance.

Based on the aforementioned facts, the allegation made in the Original Application that MoRTH has taken advantage of Item 7(f) of the EIA notification 2006 by dividing the highway to reduce its length to less than 100 Km doesn't seem justified.

However, the projects which do not fall under the purview of the EIA Notification, 2006 and its amendments, are also required to obtain clearances from various departments as per applicability, as listed below:

- i. Tree cutting permission from appropriate authority for forest and non-forest area as per prevailing laws;

- ii. Consent to Establish and Consent to Operate for construction machineries from State Pollution Control Board under Air Act, 1981 and Act, 1974
- iii. NOC from appropriate authority for setting up the construction camps;
- iv. Permission from ground water authority for abstracting any ground water;
- v. Permission from the Irrigation dept. for abstraction of water from surface sources;
- vi. Permission form mining Deptt. /appropriate authority for procurement of aggregates, sands and borrow area;
- vii. Clearance for diversion forest land under Forest Conservation Act, 1980;
- viii. Social impact Assessment Study as per applicable provisions of LARR, 2013
- ix. Wildlife clearance for stretches passing through protected areas under Wildlife Protection Act, 1972;
- x. Permission from State Board of Wildlife (SBWL) and National Board of Wildlife (NBWL) for crossing any tiger corridor notified in section 38 O(1g) under Wildlife Conservation Act, 1972;
- xi. Permission from SBWL and NBWL for crossing conservation reserve notified under Wildlife Protection Act, 1972;
- xii. CRZ clearance for CPZ area falling in the project alignment;

As per details made available to the Joint Committee, the permissions mentioned at S.No. ix to xii are not applicable to this project. It was confirmed by the representatives of the MoRTH that permissions mentioned at S.No. i to viii were obtained from the concerned Authorities.

3.2.2 Permission not taken for diversion of forest land for passing through reserved forest areas in Paonta Sahib and Renuka Ji Divisions:

In this regard, the analysis of the information provided to the Joint Committee by MoRTH and the data on the permissions granted for forest land diversion, accessible on the "**Parivesh**" Portal of the Ministry of Environment, Forests, and Climate Change, reveals that forest clearance under the Forest (Conservation) Act, 1980, was granted to HPPWD through proposal number FP/HP/Road/44020/2020 in Paonta Forest Division and FP/HP/Road/43307/2019 in Renuka Ji Division. The copies of the permissions granted are attached as **Annexure-A2** and **Annexure-A3** for Paonta and Renuka Ji Forest Divisions respectively.

Furthermore, the approval for the felling of a total of 1339 trees (741 trees in the Paonta Division and 598 trees in the Renuka Ji Division) from forest land was granted. Additionally, permission to fell 1,454 trees from non-forest land was also obtained (refer to **Annexure-A4**).

In view of the above facts, the allegation made in the application that permission for diversion of forest land for passing through the forest area in Paonta Sahib and Renuka Ji Divisions doesn't seem to be correct.

3.2.3. Illegal felling of trees across the hill slopes:

Two forest divisions are involved in the NH 707 Paonta Sahib-Gumma Section namely- Paonta Sahib Forest Division and Renuka Ji Forest Division. The following violations have been reported in both these division during highway construction, as follows in **Table 2**:

Table 2: Violations reported by Forest Division regarding illegal felling of trees and others issues.

Forest Division	Nature of violation
Paonta Sahib Forest Division (Documents submitted by the Division)	Uprooting of 24 unmarked trees from forest land located outside diverted forest land. Illegal extraction of soil/stone and digging of root zone of trees
Renuka Ji Forest Division (Documents submitted by the Division)	Illegal dumping, Damage to forest tree saplings, Soil erosion due to road cutting, illegal extraction of sand, digging of root zone at Ronhat and Shillai blocks Illegal dumping, Damage to forest tree saplings, Soil erosion due to road cutting, illegal extraction of sand, digging of root zone, heavy land slide due to illegal digging in reserve forest at Sataun and Kaffota block

3.2.4. Damage to natural sources of drinking water (rivulets) by filling with debris:

It was observed during spot inspection that villagers utilize flexible tubing/pipes to convey water from nearby streams for both drinking and irrigation. These streams flow through culverts constructed or modified during highway development, ultimately connecting to river flowing in the area.

It is true that many of these streams were found to be obstructed with debris and sediments, leading to damage to the flexible pipes and consequently disrupting water supply to the villages. In several instances, villagers were observed expanding their pipeline networks to meet their water requirements.

Indeed, this aspect should have been addressed in the Social Impact Assessment conducted by MoRTH prior to commencing highway construction. However, it appears that the impact of highway construction on these natural water sources was not anticipated during the social impact study.

Despite conflicting explanations regarding the cause of damage, with the applicant attributing it to contractors' negligence and the Ministry of Road Transport and Highways (MoRTH) and its Contractors attributing it to natural landslides, it is imperative that these natural water sources be restored by MoRTH through its contractors without any delay. This is necessary not only for road safety but also to uphold the basic right to access drinking water for nearby villages.

Both the representatives of MoRTH and its Contractors have expressed their willingness to address the issue of damage to the flexible water pipes and water source in the affected villages. Administration may issue necessary directions to the Contractors through MoRTH in this regard.

3.2.5. Illegal use of Gelatin in explosives, for road construction:

According to the details provided by MoRTH, blasting schedules were submitted by the MoRTH's Contractors to the District Administration. ***Subsequently, permissions were issued by the concerned Sub-Divisional Magistrate (SDM), with copies sent to the corresponding Station House Officer (SHO),*** to ensure the deployment of sufficient police personnel for managing both vehicular and pedestrian traffic during blasting operations (Annexure-A5). ***Therefore, the explosive used for the controlled blasting with the permission of District Administration may not be termed as illegal, as alleged in the Original Application.***

3.2.6. Muck dumping beyond the designated sites and the violation of Construction & Demolition Waste Management Rules 2016:

During spot inspection on 12/03/2024, 21/03/2024 and 22/03/2024, the joint Committee inspected total 82 spots (55 spots in the District Sirmour and 27 spots in District Shimla) on the

entire NH 707. The issues raised by the applicant and the villagers associated with him were noted and geo-tagged photographs were taken by the Joint Committee.

Subsequently, the Nodal Agencies issued letters to MoRTH seeking feedback on the issues raised on all 82 spots along with relevant documents (**Annexure-A6** and **Annexure-A7**). Various documents were also requested by the members of the Joint Committee.

Accordingly, MoRTH provided feedback on the issues raised/observed on all 82 spots along with photographs and relevant documents/record (**Annexure-A8** and **Annexure-A9**). Additionally, the following documents/data requested by the members of the Joint Committee was also provided by MoRTH:

- i. Muck Management Plans for all the Packages of the Highway.
- ii. Details of the Dumping Sites along with capacity and utilization.
- iii. Total quantity of much estimated in DPR and the actual muck generated and its disposal.
- iv. Day-wise details of Landslides reported to District Administration.
- v. Permissions for blasting issued by concerned SDMs.
- vi. Rainfall data of the period under reference.
- vii. Inspection/Supervision Notes with regard to supervision made by MoRTH during Highway construction.
- viii. Details of RoW for all the Packages of the Highway.
- ix. Before and after geo-tagged photographs of the spots, where muck observed by the Joint Committee was attributed to Landslides by the MoRTH.
- x. Copy of the forest Clearances obtained.
- xi. Forest and non-Forest Tree cutting permissions.
- xii. Permissions obtained from SPCBs.
- xiii. Report on Slope Stability issues along NH707 in the State of Himachal Pradesh by JICA Experts for Project for Capacity Development for Maintenance of Resilient Mountainous Highway
- xiv. EIA Reports prepared for World Bank.

The information provided by MoRTH to the Joint Committee on March 27, 2024, and April 1, 2024, spans approximately 1000 pages.

To verify the truthfulness of the allegations made in the Original Application regarding unauthorized muck dumping beyond designated sites, the Joint Committee is examining these

documents regarding the compliance of various conditions & guidelines made by MoRTH and its Contractors during highway construction.

*Additionally, a **comprehensive analysis is required to distinguish between dumping caused by natural landslides and that resulting from negligence of MoRTH's Contractors during highway construction.** This involves mapping all affected spots with a timeline, correlating them with photographic evidence provided in the original application, observations by the Joint Committee during spot inspection, landslide reports to the District Administration, blasting activities in these areas, and geo-tagged "before and after landslides" photographs provided by MoRTH. **This thorough examination is estimated to take three weeks.***

Furthermore, besides the factual report **on truthfulness of allegations made in the Original Application, the Joint Committee has also been directed by the Hon'ble National Green Tribunal to file an Action Taken Report. This Action Taken Report (ATR) may only be finalized after the agencies concerned act based on the conclusions and recommendations drawn by the Joint Committee, which may require an additional three weeks' time followed by one week's time for review and finalizing the report by the Joint Committee.**

3.3 Submission:

In view of facts reported in the above sections, it is requested that following Prayer be made before the Hon'ble National Green Tribunal while filing the Progress Report of the work done so far, in compliance to the directions of Hon'ble NGT.

Prayer:

The following six allegations have been made in the Original Application in O.A. No. 127 of 2024:

1. Avoidance of Requirement of Environmental Clearance by taking the advantage of Item 7(f) of the EIA Notification 2006.
2. Permission not taken for diversion of forest land for passing through reserved forest areas in Paonta Sahib and Renuka Divisions.
3. Illegal felling of trees across the hill slopes.
4. Damage to natural sources of drinking water (rivulets) by filling with debris.
5. Illegal use of Gelatin in explosives, for road construction.
6. Muck dumping beyond the designated sites and the violation of Construction & Demolition Waste Management Rules 2016.

While the factual report and verification the truthfulness of the allegations made in the Original Application (S.No. 1 to 5 in the above paragraph), have already been prepared, as

reported in the Section 3.1.1 to Section 3.1.5 of this report, *Around 06-07 weeks' time is required for the examination of the documents, analysis of the data and other activities as explained in the Section 3.1.6, to prepare and file an authentic Factual and Action Taken Report (ATR) in compliance to the Orders of Hon'ble National Green Tribunal.*

The above Progress Report may kindly be taken on the record by Hon'ble National Green Tribunal, while considering request for granting another 07 weeks' time from now, to file the final report.

4. Comments/Report by Representative of Ministry of Environment, Forest and Climate Change

The signed copy of Report/Comments submitted by MoEF&CC Member is enclosed as **Annexure-V** and detailed below.

4.1 Brief Background.

The entire road 103.55 km is passing through hilly terrain except the starting point at Paonta Sahib to Rajban. Forest land, HPPWD land and private land are involved in the project. The road construction is still under progress and supposed to be completed by June 2024. The entire road has been divided into five packages and different contractors are involved in the project. Among the five packages construction work has been completed in two packages (Shimla) and remaining three are under progress. As per MoRTH 70-80% of the construction work has been already completed. The entire report can broadly be classified into following sub points:

4.1.1 Division of road in five packages

The details of contractors involved in the construction of NH 707 are mentioned below:

Table 3: Contracts distributed by MoRTH

Sr. No.	Project Name	Company Name	Key Person
1	Paonta-Hewna	M/s ABCI Infrastructures Pvt. Ltd.	Sh. Pradeep Beniwal (Project Manager)
2	Hewna-Ashyari	M/s R.G. Buildwell Engineers Ltd.	Sh. Rahul Kumar Dey (Project Manager)
3	Ashyari-Shri Kyari	M/s H.E.S. Infra Pvt. Ltd.	Sh. Bijay Mishra (Project Manager)

4	Shri Kyari-Gumma	M/s PRL Infrastructure & Projects Ltd. – DCC (JV) Pvt. Ltd.	Sh. Manish Garg (Authorized Signatory)
5	Gumma-Fediz	M/s Shivalik Buildtech Pvt. Ltd.	Sh. Umang Verma (Project Manager)

As per EIA Notification, 2006 and further amendment dated 22.08.2013 a prior Environmental Clearance (EC) is required if, the proposed expansion involves more than 100 km of length and additional right of way (RoW) or land acquisition greater than 40m on existing alignments and 60m on re-alignments or by-passes. Further, only such project which meets both the conditions, i.e., threshold length of the highway and envisaged expansion width (RoW or land acquisition) of the highway, would require a prior EC.

4.2. Details of Muck dumping sites selected:

As per the documents provided by MoRTH the contractors have selected a total of 43 muck dumping sites and with total capacity of 51, 95,146 cum of which 39, 79,360 cum muck have been dumped into the selected dumping sites. As per the muck management plan submitted by MoRTH, all the dumping sites were to be provided with proper protective engineering like gabion walls, breast wall etc. and thereafter biological measures like plantation measures for stabilization of the dumping sites is to be carried out by the respective contractor. The details of the muck dumped can be referred in the annexures mentioned in the Table 4.

Table 4: Muck dumping sites in the packages in District Sirmaur

Package name	Total Dumping sites	Dumping capacity (cum)	Already dumped (cum)	Annexures
Paonta-Hewna	8	6,16,305	3,37,280	Annexure B1
Hewna-Ashyari	13	10,95,379	8,77,040	Annexure B2
Ashyari-Shri Kyari	12	20,28,045	13,80,488	Annexure B3
Shri Kyari-Gumma	8	11,04,552	11,04,552	Annexure B4
Gumma-Fediz	2	3,50,865	2,80,000	
Total	43	51,95,146	39,79,360	

4.2.1. MMP of dumping sites of each package

As per the muck management plan submitted by MoRTH, all the dumping sites were to be provided with proper protective engineering like gabion walls, breast wall etc. and thereafter biological measures like plantation, hydroseeding measures for stabilization of the dumping sites is to be taken up the contractors. The details of the muck management plan of each package can be referred at **Annexure B5**.

4.3. Forest Clearance and Tree cutting permissions:

Forest clearance under Forest (Conservation) Act, 1980 has been accorded in favour of HPPWD vide proposal number FP/HP/Road/44020/2020 in Paonta Forest Division (**Annexure B6**) and FP/HP/Road/43307/2019 (**Annexure B7**) in Renuka Ji Division. In Paonta Division felling of 741 trees and in Renuka Ji Division felling of 598 trees from forest land has been accorded with the proposal numbers mentioned above. Apart from felling of (741+598) trees from Forest land, tree felling permission of 1,454 trees from non-forest land was also granted by the State (**Annexure B8**). However, cross verification of number of trees permitted for felling from both forest and non-forest land and number of trees felled by the contractors during construction of road is required to be verified by the Forest department.

4.3.1. Action taken and violation reported by forest department

Three forest divisions are involved in the entire stretch of the NH 707 Paonta Sahib-Gumma-Fediz section namely- Paonta Sahib Forest Division, Renuka Ji Forest Division. Violations have been reported in all of these division by the contractors while constructing the road. The details of the violation reported in each division is presented in the table below:

Table 5: Violation reported by Himachal Pradesh Forest Departments in District Sirmaur.

Forest Division	Nature of violation	Action taken by Forest Department
Paonta Sahib Forest Division (Documents submitted by the Division- Annexure B9)	Illegal dumping reported at 7 sites, illegal extraction of tree root zone two times has been reported	Damage report chalked against construction company NH 707 amounting to Rs. 5,07,179/-
Renuka Ji Forest Division (Documents submitted by the Division Annexure B10)	Illegal dumping, Damage to forest tree saplings, Soil erosion due to road cutting, illegal extraction of sand, digging of root zone at Ronhat and Shillai blocks	Damage report chalked against construction company NH 707 amounting to Rs. 3,19,196/-

	Illegal dumping, Damage to forest tree saplings, Soil erosion due to road cutting, illegal extraction of sand, digging of root zone, heavy land slide due to illegal digging in reserve forest at Sataun and Kaffota block	Damage report chalked against construction company NH 707 amounting to Rs. 4,03,997/-
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4.4. Blasting permits submitted by MoRTH:

For earth cuttings at the sites where rocky strata was found, blasting permits have been applied by the contractors. The documents thereof have been provided by the MoRTH. The details of the same can be referred at **Annexure B11**.

4.5. Landslide records submitted by MoRTH:

Documents provided by MoRTH (**Annexure B12**). Need additional time to analyze the report

4.6. Action/Inspections record taken by MoRTH:

The various conditions regarding quality of work, muck dumping sites, tree cutting, earth cuttings, construction of protective measure to arrest soil erosion etc. imposed by the different agencies/departments are to be ensured by the MoRTH. The Project Implementing Unit (PIU), Paonta Sahib have been formed to look after the entire project. The team of PIU used to carry out the inspections of the road constructed and different aspects including muck management as per EPC contract. The various records, site inspections reports, MoM of the meeting issued to the contractors for violating terms of contract and others have been provided by the MoRTH and the same can be referred at **Annexure B13**.

4.7. Violation alleged by the applicant during spot inspection and comments provided by MoRTH: -

The reply has been provided by the MoRTH to Ld. ADM, Paonta Sahib which may be attached along with the report **Annexure B14**. Further, the allegation made in OA have been extensively covered in the comments provided by CPCB member. The observations made by the member of CPCB is agreed with. The same may be annexed by the Nodal officers of the Joint Committee.

4.7.1. Observations/comments-

During the inspection carried out across three days almost all the approved muck dumping areas and non-approved muck dumping areas have been visited. All the packages have been covered extensively.

Comments on Sirmaur Section-Package 1, Package 2 and Package 3 (Chainage 0-87 km).

- During the inspection it has been observed that none of the approved/selected dumping sites have been tagged providing details of the location, area involved, capacity of dumping sites, name of the owner of the land etc. which created lots of confusion. The MoRTH must take initiative to mark all the designated muck dumping site and the details thereof should be clearly mentioned in the display boards and the same shall be reported to Regional Office of HPSPCB concerned. HPSPCB shall report all the illegal dumping sites after verification.
- It has been observed that the muck dumping sites are on the bank of rivers and on steep slopes of the mountain. There are no specific guidelines regarding the maximum limit of slope/angle at which dumping sites can be selected. In absence of such guidelines, random and haphazard selection of dumping site has taken place which may fail in near future keeping at view of changing patterns of rainfall and recent cases of flash floods in Himachal Pradesh.
- During the inspection it has been observed that muck generated from earth cuttings were dumped into area without any protection measures. On enquiring with the contractors in general, it has been submitted by them that protection measure if constructed before muck dumping, the force of the rolling muck often destroys the protective measures and results into overtopping of protective measures. However, the practice should be construction of protective measure first and then dumping of muck.
- In many of the dumping sites it has been observed that the debris of earth cuttings are flowing into the river irrespective of whether protection wall has been constructed or not.
- In many of the dumping site (both approved/not-approved) failure of protection/engineering measures have been observed due to which private farm land of many individuals are susceptible to further damage and the same is required to be addressed and quantified in a time bound manner by MoRTH and District Administration.

- Due to hill cuttings on the upper side of the slope, one village and many homes at different locations have become susceptible to landslide which are required to be quantified and addressed immediately in a time bound manner by MoRTH and District Administration.
- Due to hill cutting in many locations the slope of upper side has become unstable and may result into land slide in future. Protective measure in all such location is required by contractor to prevent loss of property and life.
- Dumping of excavated materials into the smaller water channels/ rivulets have been also observed due to which the natural drinking water sources and irrigation sources may get severely hampered in immediate future. This is required to be addressed and sorted in a time bound manner.
- It has been submitted by the MoRTH and the contractors that during the flash flood of 2023 in Himachal Pradesh Landslides have occurred at multiple points in the entire stretch of the road. Further it was apprised that there was immense pressure from the State authorities and public in general to open the road blockades. To open the road the contractors have pushed the rolled down debris of landslide on the downward side of valleys instead of dumping the muck at designated dumping sites.
- In Renuka Ji Division it has been observed that the due earth cuttings upper side of the road have collapsed at two locations due to which the many Deodar trees have collapsed.
- From the documents submitted regarding Muck Management Plan and data mentioned in Table 2 it can be clearly observed that out of approved 51,95,146 cum capacity of dumping sites 39,79,360 cum capacity has been utilized so far. In such scenario, the land slide debris should have been dumped in unutilized dumping areas only instead of littering.
- During the inspection it can be clearly felt that muck dumping has been carried out at multiple undesignated sites and due to which loss of forest wealth has been already caused. The damage so caused is required to be quantified by Himachal Pradesh State Pollution Control Board and State Forest Department.

Comments on Sirmaur Section-Package 4).

- The construction of package 4 have been completed on 08.04.2024 and accordingly completion certificate yet to be provided by MoRTH to the respective contractors.
- As per the documents provided by MoRTH, 8 dumping sites of package 4 with a dumping capacity of 11, 04,552 cum has been completely utilized.
- It was further observed that protection measures and bio-engineering methods have been implemented in the approved dumping sites of package 4. However, the dumping sites were not marked/tagged mentioning the details thereof in a display board.
- It has been submitted by the MoRTH and the contractors that during the flash flood of 2023 in Himachal Pradesh Landslides have occurred at multiple points in the entire stretch of the road. Further it was apprised that there was immense pressure from the State authorities and public in general to open the road blockades. To open the road the contractors have pushed the rolled down debris of landslide on the downward side of valleys instead of dumping the muck at designated dumping sites.
- During the inspection it has been observed that none of the approved/selected dumping sites have been tagged providing details of the location, area involved, capacity of dumping sites, name of the owner of the land etc. which created lots of confusion. The MoRTH must take initiative to mark all the designated muck dumping site and the details thereof should be clearly mentioned in the display boards and the same shall be reported to Regional Office of HPSPCB concerned. HPSPCB and Forest Department shall report all the illegal dumping sites after verification to the Joint Committee for finalizing the report.

4.8. Action to be taken

- The MoRTH is required to submit geo-coordinates of all approved dumping sites in a tabulated form to the Joint committee. The KML file in polygon form of each approved dumping sites is also required to be submitted for further analysis.
- HPSPCB and Forest department along with MoRTH is required to provide geo-coordinates of all the muck dumped outside approved dumping sites in a tabulated form to the Joint committee. The KML file in polygon form of each such dumping sites is also required for further analysis.

4.9. Submission

The documents submitted by the MoRTH spans across more than 1000 pages which are required to be scrutinized before finalizing the report. Meanwhile the above progress report may be kindly taken into record. Further, it is hereby requested to grant additional 6-7 weeks' time to verify the total number of illegal dumping sites from the documents provided so far and geo tagged photographs taken during the Joint inspection.

5. Comments/Report by H.P. State Pollution Control Board:

The signed copy of Report/Comments submitted by HPSPCB Regional Office Paonta Sahib is enclosed as **Annexure-VI** and detailed below.

5(a). PACKAGE WISE COMPONENTS AND CONSENT STATUS:

i) M/s ABCI Infrastructure Ltd. (Pkg. I)

The details of components installed by M/s ABCI Infrastructure Ltd. along with their consent and operation status are tabulated below:

Table 6: Components installed by M/s ABCI Infrastructure Ltd.

Sr. No.	Name of component and location	Consent Status	Operation Status
1.	Hot Mix Plant in Vill. Kunja Matraliyon, Paonta Sahib, Distt. Sirmaur, H.P.	Valid up to 31.03.2024	Non-Operational and machinery is being dismantled.
2.	Wet Mix Macadam (WMM) Plant in Vill. Kunja Matraliyon, Paonta Sahib, Distt. Sirmaur, H.P.	Valid up to 31.03.2024	Non-Operational and machinery has been dismantled.
3.	Ready Mix Concrete (RMC) Plant in VPO Rajban, Tehsil Paonta Sahib, Distt. Sirmaur, H.P.	Valid up to 31.03.2024	Operational and the unit has applied for Renewal of Consent to Operate.
4.	Mobile Stone Crusher in Vill. Chilon, Tehsil Kamrau, Distt. Sirmaur, H.P.	Valid up to 31.03.2024	Non-operational and plant & machinery has been removed from the site.

ii) **M/s R.G. Buildwell Engineer Ltd. (Pkg. II)**

The details of components installed by M/s R.G. Buildwell Engineer Ltd. along with their consent and operation status are tabulated below:

Table 7: Components installed by M/s R.G. Buildwell Engineer Ltd.

Sr. No.	Name of component and location	Consent Status	Operation Status
1.	Wet Mix Macadam (WMM) Plant in Kamrau, Distt. Sirmaur, H.P.	Valid up to 31.03.2024	Non-operational and machinery is not present at the site.
2.	Stone Crusher in Kamrau, Distt. Sirmaur, H.P.	Valid up to 31.03.2024	Operational. Applied for further period.

iii) **M/s HES Infra Pvt. Ltd. (Pkg. III)**

The details of components installed by M/s HES Infra Pvt. Ltd. along with their consent and operation status are tabulated below:

Table 8: Components installed by M/s HES Infra Pvt. Ltd.

Sr. No.	Name of component and location	Consent Status	Operation Status
1.	Stone crusher installed at RD (57+800) kms	Valid up to 31.03.2024	Operational. Not applied for further period. Show Cause Notice issued.
2.	Wet Mix Macadam Plant at RD (57+800) kms	Valid up to 31.03.2024	Operational. Not applied for further period. Show Cause Notice issued.
3.	Hot Mix Plant at RD (57+800) kms	Valid up to 31.03.2024	Operational. Not applied for further period. Show Cause Notice issued.
4.	Ready Mix Concrete (RMC) Plant installed at RD 60+00 kms	Valid up to 31.03.2024	Operational. Not applied for further period. Show Cause Notice issued.

iv) **PRL Projects and Infrastructure Ltd Dhatarwal Construction Company Pvt Ltd JV (Pkg.IV)**

The details of components installed by M/s PRL Projects and Infrastructure Ltd Dhatarwal Construction Company Pvt Ltd JV along with their consent and operation status are tabulated below:

Table 9: Components installed by M/s PRL Projects and Infrastructure Ltd Dhatarwal Construction Company Pvt Ltd JV

Sr. No	Name of component and location	Consent Status	Operation Status
1.	Stone crusher installed Near minus bridge, Mauza Kharkah, Tehsil Shillai, District Sirmaur H.P.	Valid up to 26.09.2023	Non- Operational and machinery has been removed after completion of work.
2.	Hot Mix Plant Near minus bridge, Mauza Kharkah, Tehsil Shillai, District Sirmaur H.P.	Valid up to 26.09.2023	
3.	Ready Mix Concrete (RMC) Plant installed Near minus bridge, Mauza Kharkah, Tehsil Shillai, District Sirmaur H.P.	Valid up to 26.09.2023	

- Copies of consents issued to project proponents of above-mentioned packages are attached as **Annexure-C1**.

5(b). Inspection by Joint Committee on 12.03.2024 and 21.03.2024, Re-inspection of stretch on 31.03.2024 and observations made by HPSPCB:

- The Joint Committee inspected the stretch along with complainant on 12.03.2024 and 21.03.2024.
- Unit's project proponents were directed time and again to be present with all record but no proper record was made available to Joint Committee during the time of inspection.
- No sign boards of approved dumping sites were provided in any of the dumping sites.
- No prior approval from any competent authority has been obtained wrt muck dumping at private land.
- Unscientific muck dumping was observed at various locations of NH707 stretch in District Sirmaur. Upon seeking reasons of such violations all the 03 contractors, (stretch 01, 02 & 03) have denied any unscientific muck dumping and have claimed that entire muck which is seen on hill slopes is due to slope failure in the previous rainy season or natural landslides.

- Re-inspection of the stretch in District Sirmaur was carried out by officials of HPSPCB on 31.03.2024 and no significant improvements were observed.
- Some components such as Stone crushers, Hot mix plant, RMC of the project proponents were found with inadequate Pollution Control Devices and operating without valid consent of the State Board. Show Cause Notices have been issued and appropriate action has been recommended to the competent authority against such units.

5(c). Actions Taken by HPSPCB:

- a. Show cause notices w.r.t. unscientific muck dumping were issued to the concerned units from Regional Office, HPSPCB Paonta Sahib w.r.t. the observations made which are self-explanatory in the show cause notices issued to the units. Copies of the show cause notices issued to the units are enclosed herewith as **Annexure-C2**.
- b. Based on replies received from some units and reinspection of the stretch carried out on 31.03.2024, recommendation of imposition of Environmental Compensation (EC) on polluter pays principle as per Hon'ble NGT orders were made to Head Office, HPSPCB Shimla w.r.t. violations observed during the inspection. The copies of EC recommendation letters are enclosed as **Annexure-C3**.
- c. Action under section 33-A/31-A of Water Act, 1974 & Air Act, 1981 w.r.t closure of operations of stone crushers, RMC and Hot Mix Plant has been recommended to Head Office, HPSPCB Shimla. The copies of recommendations are enclosed herewith as **Annexure-C4**.
- d. Regional Office, HPSPCB Paonta Sahib shall keep strict vigil on the units falling under its jurisdiction. Any violations observed in future shall be dealt strictly.

6. Submissions:

- i. The Reports/Comments provided by the Individual members of the Joint Committee are submitted before Hon'ble NGT for consideration please.
- ii. As per comments/provided by Regional Officer, HPPCB, Paonta Sahib, recommendation of imposition of Environmental Compensation (EC) has been made to the competent authority, at their own level.
- iii. However, as per member representing CPCB, *"the information provided by MoRTH on March 27, 2024, and April 1, 2024 as required by Nodal Agency and Members of the Joint Committee, spans approximately 1000 pages. A comprehensive analysis is required*

to distinguish between dumping caused by natural landslides and that resulting from negligence of MoRTH's Contractors during highway construction. **This involves mapping all affected spots with a timeline, correlating them with photographic evidence provided in the original application, observations by the Joint Committee during spot inspection, landslide reports to the District Administration, blasting activities in these areas, and geo-tagged "before and after landslides" photographs provided by MoRTH. This thorough examination is estimated to take three weeks.**

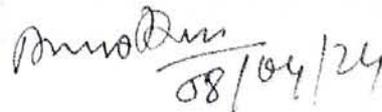
Furthermore, besides the factual report on truthfulness of allegations made in the Original Application, the Joint Committee has also been directed by the Hon'ble National Green Tribunal to file an Action Taken Report. This Action Taken Report (ATR) may only be finalized after the agencies concerned act based on the conclusions and recommendations drawn by the Joint Committee, which may require an additional three weeks' time followed by one week's time for review and finalizing the report by the Joint Committee"

- iv. **The member representing MoEF&CC is also in agreement with the views of CPCB Member with regard to the time required for scrutinizing the record provided by MoRTH spanning across more than 1000 pages, before finalizing the report.**
- v. The Comments/report of the individual members are yet to be finalized as a consolidated report of the Joint Committee regarding truthfulness of the allegations made in the Original Applications along with Action Taken Report, as directed by Hon'ble National Green Tribunal.
- vi. The Joint Report pertaining to District Shimla shall be filed separately by the nodal department in District Shimla i.e. Deputy Commissioner, District Shimla.

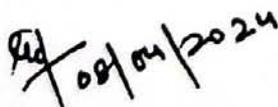
The above progress report of the Joint Committee may kindly be taken on record, for consideration of Hon'ble National Green Tribunal.



Regional Officer
HPPCB Regional Office Paonta
Sahib, Distt Sirmour (HP)



Assistant Director / Scientist 'B'
MoEF&CC, Sub Office, Shimla (HP)



Scientist 'F' & Director
Central Pollution Control Board
Regional Directorate Chandigarh (UT)



Additional District Magistrate
Sirmour District Sirmour at Nahan,
(HP)

Item No. 05

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 127/2024

Naathu Ram

Applicant

Versus

Ministry of Road Transport and
Highways & Ors.

Respondent(s)

Date of hearing: 06.02.2024

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Rahul Khurana & Mr. Hasil Jain, Advs.

ORDER

1. In this original application, Applicant has raised a grievance against construction in the Shivalik range of Himalayas extending up to a length of 97/103.55 kms in the State of Himachal Pradesh undertaken by the Ministry of Road Transport and Highways in the process of two lane upgradation with paved shoulders of existing single lane Paonta Sahib – Guma section at National Highway No. 707. The allegation of the Applicant is that during road widening and upgradation process, contractors are destroying the Himalayan ecology and natural vegetation and that they are breaking and cutting the hills on one side of the road and throwing the debris (including boulders, stones, dust, etc.) on the steep hill on the other side of the road in the valley. As per the allegation, the entire hilly area on the length of 97 km on the downside slope is getting destroyed, which includes natural vegetation, river streams, habitations, wildlife, etc. It is also alleged that crores of trees including Pine and Deodhar have been destroyed and thousands of minor and