

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

O.A. No. 61 of 2021

In the matter of:-

Abhishek Katara

... Applicant

V/s

State of Himachal Pradesh & others

.....Respondents

INDEX.

Sr. No.	Particulars	Page No.
1.	Action Taken Report in compliance of Hon'ble National Green Tribunal order dated 10.03.2021 through Member Secretary, HP State Pollution Control Board.	1-7
2.	Annexure R-1 Copy of proceedings dated 07.06.2021 held under the Chairpersonship of Principal Secretary (Urban Development/ TCP) to the Government of Himachal Pradesh	8-11
3.	Annexure R-2 Copy of joint site inspection Committee report dated 10.06. 2021.	12-26
7.	Annexure R-3 Copy of proceedings dated 05.07.2021 held under the Chairpersonship of Principal Secretary (Urban Development/ TCP) to the Govt. of Himachal Pradesh alongwith its annexures A to D.	27-44

Date: 07-07-2021

Place: - Shimla

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

O.A. No. 61/2021

In the matter of:-

Abhishek Katara

... Applicant

V/s

State of Himachal Pradesh & others

.....Respondents

**ACTION TAKEN REPORT IN COMPLIANCE OF
HON'BLE NATIONAL GREEN TRIBUNAL ORDER
DATED 10.03.2021 THROUGH MEMBER
SECRETARY, HP STATE POLLUTION CONTROL
BOARD.**

I, Apoorv Devgan, S/o Lt. Shri Bharat Bhushan, aged 33 years, presently working as Member Secretary, HP State Pollution Control Board do hereby solemnly affirm and say as under:-

1. That the aforesaid O.A. No. 61 of 2021 is pending for adjudication before this Hon'ble National Green Tribunal and is fixed for hearing on 09.07.2021.
2. That vide order dated 10.03.2021 the Hon'ble Tribunal was pleased to pass the following directions , the relevant operative part of which is reproduced herein as under:-

" In view of the above, before proceeding further, we consider it necessary to require a factual and action taken report from a four member joint Committee comprising the Secretary, Urban Development, H.P., PCCF (HoFF), H.P., Municipal Commissioner, Shimla and the State PCB. The State PCB will be the nodal agency for compliance and coordination. The report may be furnished within two months by e-mail at judicial-ngt@gov.in

ATTESTED

OATH COMMISSIONER

preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF."

3. That the Deponent with utmost reverence to this Hon'ble Court craves to make following submissions:-

a) Compliance of directions dated 10.03.2021 passed by this Hon'ble Tribunal.

I. In pursuance to the passing of the directions dated 10.03.2021 of this Hon'ble Tribunal, the Principal Secretary (Urban Development/ TCP) to the Government of Himachal Pradesh has convened a meeting dated 07.06.2021 (Copy of proceedings is enclosed as **Annexure R-1**). The Joint Committee decided that in accordance with the directions of the Hon'ble National Green Tribunal, a factual and action taken report be submitted by the Inspection & Action Committee by conducting a site visit to ascertain factual position on the allegations made by the Applicant before the Hon'ble National Green Tribunal along with action taken, if any; The composition of Inspection and Action Committee was directed to be as under:-

1. Commissioner, Municipal Corporation, Shimla- Chairperson,
2. Member Secretary, HP State Pollution Control Board- Member,
3. Chief Conservator of forests- Member, and
4. Director, Town & Country Planning, Himachal Pradesh- Member.

It was decided that the aforesaid Committee shall carry out a joint inspection at the site under reference and ascertain following aspects:-

ATTESTED


C
CATH COMMISSIONER

1. Whether the construction done by the private respondents is as per the Supervisory Committee approval in terms of number of storeys and building height, and
2. Removal of trees in a planned manner as alleged by the Applicant.

b) Action taken report by the Inspection & Action Committee

2. The Inspection & Action Committee along with the supporting staff visited the Petrol Pump site on 10.06.2021 at 11:00 A.M. for carrying out detailed inspection and measurements of the actual construction carried out at site, as per scope of work defined in the meeting dated 07.06.2021 held under the Chairmanship of Pr. Secretary, Urban Development & Town & Country Planning to the Govt. of Himachal Pradesh. The Committee members visited the Site situated at the valley side and thereafter measurements of the existing R.C.C framed structure constructed till date were carried out jointly by the technical field staff of MC Shimla, Divisional Town Planning Office Shimla, Forest Department team in the presence of all Committee Members. The copy of action taken report of the Inspection and Action Committee is hereby annexed as **Annexure R-2**, (copy of which has already been e-filed before the registry of this Hon'ble Tribunal on 03.07.2021). As per the report, following conclusions

have been derived :

ATTESTED
COMMISSIONER

"1. Report on number of storeys, building height etc.

The Inspection & Action Committee perused the case file and the approval/sanction letter and the maps of the instant case vis-à-vis the construction carried out at site. As per the measurement of construction carried out at site, **it is observed that against the approval of Competent Authority for constructing a 5 level framed RCC structure (non-habitable) comprising columns and cross beams having height 16.25 M and 2.00M plinth, i.e. the retaining wall over natural slope of land, the applicant has constructed R.C.C framed structure at 5 levels below road with total height of 15.90 mtrs, i.e. 0.35 mtrs less. However, the approved plinth height was 2.00 mtrs but on the spot plinth height is varying from 3.50mtrs to 6.00mtrs.**

Reasons for the variation in plinth height on the spot from the sanctioned plinth height as per the version of the applicant which are stated as under:-

"That is further most respectfully submitted that prior to the approval of the map as directed by the Hon`ble Supervisory Committee a Geological report had been submitted that the perusal of the same would go to reveal that as opined by the Ld Geologist that according to him there existed 2.25 mtrs of over burden of loose strata and foundations were supposed to be laid 1.5 mtrs in situ rocks. That during excavation at the site the



firm strata was achieved at a depth of 8-9 mtrs below the natural soil level and the structure was raised from the firm strata.

However, the committee also observed that in addition to the constructed five levels below road level at site P.C.C. /R.C.C. retaining wall of height varying from 1.50mtrs to 4.0mtrs is under construction as a protection measure to make the whole structure stable and earthquake resistant. The retaining wall was not proposed in the approved plans, but is within the plot boundary...".

As per the proceedings of the Joint Committee, the Commissioner Municipal Corporation Shimla has issued a notice dated 04.06.2021 under the provisions of HP Municipal Corporation Act, 1994 to the private respondents to stop the construction activities at the site till final disposal of the matter in question.

"3. Removal of trees in a planned manner as alleged in the application.

As far as removal of trees in a planned manner as alleged in the application are concerned, the Inspection & Action Committee present at site independently ascertained the same and also measured the distance of trees from the built framed structure. From the comparison the NOC granted by the Forest Department vide Letter dated 05.07.2019 and the supporting report including the site plan clearly showing the location of



ATTESTED
COMMISSIONER

only one tree within the plot boundary and four trees outside the plot boundary. As per the site inspection it was ascertained by the Committee that all five trees as per forest NOC dated 05.07.2019 are existing at site, therefore no tree has been removed from the site as alleged. Further, the minimum distance of 2.0 meters from the all the trees, except one located on the right side on lower valley side has been maintained. The one tree is located at a distance of 1.88 mtrs from the structure".

The Joint Committee had deliberated upon the Inspection & Action Committee's report and co-related issues vide its 2nd meeting held on 05.07.2021 under the Chairpersonship of Principal Secretary (Urban Development/ TCP) to the Government of Himachal Pradesh. The copy of proceedings indicating facts and action taken is hereby annexed as **Annexure R-3**.

As per the report of Joint Committee, the Supervisory Committee had *"decided that since the proposed project is Public Utility, the desired relaxation may be granted in public interest...."*.

Further, the Joint Committee has noted in the proceedings that *"furthermore as per Schedule 1 and Section 2(n) of the Industrial Dispute Act, 1947, it is hereby evident that the motor and aviation spirit, diesel oil etc. have been held to have fallen within the definition of Public Utility"*.

ATTESTED
OATH COMMISSIONER

In view of the above submissions, it is, respectfully and humbly prayed that the present affidavit/ action taken report on behalf of respondent State through this Board may kindly be taken on record in the interest of justice, equity & fair play.


....Deponent

Verification:-

I, the above named deponent, do hereby further solemnly affirm that the contents of para 1 to 3 of the action taken report/ affidavit are true and correct to the best of my knowledge and nothing has been concealed therefrom.

Signed and Verified at Shimla on day of 7th July, 2021

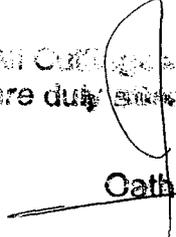

....Deponent


Identified by

TESTED
OATH COMMISSIONER

Certified that the above/overleaf was declared before me on solemn affirmation on this 7th day of July 2021 at Shimla in the District of Shimla by AP v Duggan who was identified by Sh. N. Paul A.L.O. who is personally known to me. The contents of the above 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.

All Omissions and Corrections are duly entered by me.


Oath Commissioner
7-7-21

Oath Commissioner
HP High Court, Shimla
7-7-21



Proceeding of the Joint Committee meeting in compliance to the order dated 10.03.2021 passed by the Hon'ble National Green Tribunal in O.A no. 61 of 2021 held under the Chairmanship of Principal Secretary (Urban Development) to the Government of Himachal Pradesh on dated 07.06.2021 held in the Office Chamber, HP Secretariat at 3.00 P.M.

In pursuance to the order dated 10.03.2021 passed by the Hon'ble National Green Tribunal in O.A.no. 61 of 2021 titled as "Abhishek Katara versus State of Himachal Pradesh and others", a meeting of Joint Committee was convened under the Chairmanship of Sh. Rajneesh (IAS), Principal Secretary (Urban Development) to the Government of Himachal Pradesh

The meeting was attended by the following officers/ officials:-

1. Dr. Nipun Jindal (IAS), Member Secretary, HP State Pollution Control Board, Shimla-9.
2. Shri Ashish Kohli (IAS), Commissioner, Municipal Corporation, Shimla-1.
3. Shri Rajesh Sharma, (IFS), Chief Conservator of Forests (Finance), Shimla-1.
4. Shri Kamal Kant Saroch (IAS), Director, Town & Country Planning, Himachal Pradesh, Shimla-9.
5. Shri Karam Chand Nanta, State Town Planner, Town & Country Planning Department, Shimla-9, H.P.
6. Shri Davinder Mista, Architect Planner, Municipal Corporation, Shimla, H.P.
7. Smt. Prem Lata Negi, Town & Country Planner, (Shimla Division. District Shimla, H.P.
8. Shri Lalit Thakur, Environmental Engineer, HP State Pollution Control Board, Shimla-9.
9. Shri Deepak Dogra, Jr. Environmental Engineer, HP State Pollution Control Board, Shimla-9.
10. Shri Mayank Manta- Additional District Attorney cum Law Officer, Town & Country Planning Department, Shimla-9, H.P

As per the order dated 10.03.2021, the Hon'ble Tribunal has directed that, "In view of the above, before proceeding further, we consider it necessary to require a factual and action taken report from a four member joint Committee comprising the Secretary, Urban Development, H.P., PCCF (HoFF), H.P., Municipal Commissioner, Shimla and the State PCB. The State PCB will be the nodal agency for compliance and coordination."

During the course of meeting it was apprised by the Commissioner, Municipal Corporation, Shimla that the present approval of the construction in question has been placed before the 16th meeting of Implementation Committee held on 06.03.2020 & 17th meeting dated 12.05.2020 and thereafter before Supervisory Committee as agenda item in its 8th meeting held on 09.06.2020 the case was approved being a public utility project as per the order of Ld. NGT in its judgment dated 16.11.2017 in O.A.no. 121 of 2014 titled as 'Yogendra Mohan Sengupta versus UOI & Ors.', whereby it was decided as under:-

"3. Case of proposed retail outlet for Sh.Kunal Rai Sethia M/s Indian Oil Corporation Ltd. said to be comprised on Kh. No.426/1 at Mohal Kasumpti Junga NH 05 at Km.10.880 (RHS) (Shimla Bye-Pass) Tehsil & District Shimla (H.P).

Initially the matter was placed before the Implementation Committee in the 16th Meeting. The plans for aforesaid construction have been submitted on land bearing Khasra No.426/1, measuring 789.79 Sqm at Mohal Kasumpti, Shimla. The site is on the valley side of Shimla, Dhalli Bye-pass falls within jurisdiction of Municipal Corporation, Shimla. At the road level Petrol Pump is proposed to be set up having canopy, sale office and electrical room and below the road 5 level framed RCC structure comprising columns and cross beams having height 16.25 M over 2.00M plinth is proposed to be constructed. This 5 level framed RCC Structure below the road involves relaxation with reference to order dated 16.11.2017 passed by the Hon'ble National Green Tribunal, which limits the construction of 2+ attic floors in Non-Core Area of Shimla Planning Area. The change of land use is also involved from Residential Use as specified in IDP, Shimla to proposed Petrol Pump and the powers to grant permission for Change of Land use are vested with the Director, Town & Country Planning Department as per Notification dated 28.06.2016.

The case was placed before the Implementation Committee for deciding if the relaxation from 2+ Attic floors to 5 level framed RCC Structure comprising columns and cross beams is to be recommended or not. Keeping in view the nature of the proposed activity as public utility i.e. Petrol Pump, the Implementation Committee had left the decision to the Supervisory Committee.

This case was discussed by the Supervisory Committee and it was decided that since the proposed project is Public Utility, the desired relaxation may be granted in public interest subject to the following conditions:-

- i. The applicant has to submit the Geological Report of the site to Municipal Corporation, Shimla.*
- ii. The applicant has to submit the Slope Analysis Report of the site to the Municipal Corporation, Shimla.*
- iii. The applicant will keep the framed structure non-habitable.*
- iv. The Municipal Corporation, Shimla will ensure that the necessary codal formalities are completed before issuing final permission."*

The Approval of building plan was then sanctioned by the Municipal Corporation Shimla in favour of private respondents on 26.08.2020 for construction/commission of retail outlet of petrol pump.

The Joint Committee decided that in accordance with the directions of the Hon'ble National Green Tribunal, a factual and action taken report be submitted by the Inspection & Action Committee by conducting a site visit to ascertain factual position on the allegations made by the Applicant before the Hon'ble National Green Tribunal along with action taken, if any; The composition of Inspection and Action Committee shall be:-

1. Commissioner, Municipal Corporation, Shimla- Chairperson,
2. Member Secretary, HP State Pollution Control Board- Member,
3. Chief Conservator of forests- Member, and
4. Director, Town & Country Planning, Himachal Pradesh- Member.

It was decided that the aforesaid Committee shall carry out a joint inspection at the site under reference and ascertain following aspects:-

1. Whether the construction done by the private respondents is as per the Supervisory Committee approval in terms of number of Storeys and building Height, and
2. Removal of trees in a planned manner as alleged by the Applicant.

-11-

The Committee was directed to submit its factual and action taken report on or before 16th June, 2021 after complying with the directions so passed by the Ld. National Green Tribunal in true letter and spirit so that the same can be placed before the Ld. Tribunal accordingly and before the next date of hearing.

The meeting ended with a vote of thanks to and from the Chair.

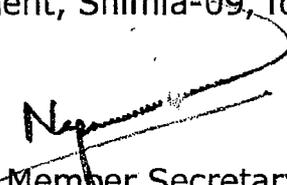
Sd/-
Principal Secretary
(Urban Development)
to the Government of Himachal Pradesh

No. *PCB Resp. Cont. case (C.No.01/21) - 343-45*

Dated: *9/6/2021*

Copy forwarded to:-

1. The Commissioner, Municipal Corporation, Himachal Pradesh, Shimla-02, for information and necessary action, please.
2. Principal Chief Conservator of Forests, Shimla-1, for information and necessary action, please.
3. Director, Town and Country Planning Department, Shimla-09, for information and necessary action, please.


Member Secretary,
HP State Pollution Control Board, Shimla-9

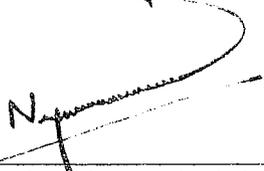
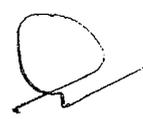
JOINT SITE INSPECTION REPORT

SUBMITTED BY

**THE JOINT INSPECTION COMMITTEE
CONSTITUTED IN OA NO.61/2021-ABHISHEK
KATARA VS STATE OF H.P. & ORS.**

[PROPOSED RETAIL OUTLET FOR SH. KUNAL RAI SETHIA M/S
INDIAN OIL CORPORATION LTD. SAID TO BE COMPRISED ON KH.,
NO. 426/1 AT MOHAL KASUMPTI JUNGA NH-05 AT KM 10.880
(RHS) (SHIMLA BYE-PASS) TEHSIL & DISTRICT-SHIMLA (HP)].

10th JUNE, 2021

			
Sh. Ashish Kohli, Commissioner MC Shimla (Member)	Sh. Nipun Jindal Member Secretary, PCB (Member)	Sh. Kamal Kant Saroch, IAS (Co-opted Member)	Sh. SD Sharma CCF, Shimla (Member)

1. INTRODUCTION

-13-

The Hon'ble National Green Tribunal in OA No. 61/2021-Abhishek Kataravs State of H.P. & Ors, vide orders dated 10.03.2021 had directed to constitute a joint Committee comprising of Secretary, Urban Development, H.P., PCCF (HoFF), H.P., Municipal Commissioner, Shimla and the State PCB to verify the allegations made in the application. The State PCB has been further directed to be the nodal agency for compliance and coordination. The case in question is the approved and under construction Retail outlet of Sh. KunalRaiSethia M/s Indian Oil Corporation Ltd. onKh. No. 426/1 at mohalKasumptiJungaNH-05 at km 10.880 (Rhs) (Shimla bye-pass) Tehsil & District-Shimla, H.P., located within the jurisdiction of MC Shimla under Shimla Planning Area.

2. CONSTITUTION OF JOINT INSPECTION COMMITTEE

In order to comply with the directions entailed in the order dated 10.03.2021 passed by the Hon'ble National Green Tribunal in O.A no. 61 of 2021 titled as "AbhishekKatara versus State of Himachal Pradesh and others", a meeting was convened under the Chairmanship of sh. Rajneesh (IAS), Principal Secretary (Town & Country Planning /Urban Development) to the Government of Himachal Pradesh on 07.06.2021.

It was decided during the said meeting that for the purpose of carrying out the site inspection and to verify the approvals accorded by the Supervisory Committee as per the directions of Ld. NGT, a joint inspection Committeebe constituted comprising of:-

1. Member Secretary, HP State Pollution Control Board,
2. Commissioner, Municipal Corporation, Shimla, and
3. Chief Conservator of Forests, Shimla

The aforesaid Committee is headed by the Commissioner, Municipal Corporation, Shimla and the Director, Town & Country Planning Department is a co-opted Member of the Committee to provide assistance during the site inspection.



3. SCOPE OF WORK OF THE JOINT SITE INSPECTION COMMITTEE

It was decided in the Joint Committee meeting that the aforesaid Inspection and Action Committee shall carry out a joint inspection at the site under reference and ascertain following aspects:-

1. Whether the construction done by the private respondents is as per the Supervisory Committee approval in terms of number of Storeys and building Height, and
2. Removal of trees in a planned manner as alleged by the Applicant.

4. PROJECT DETAILS

a) Approval Chronology

The applicant of Sh. Kunal Rai Sethia had submitted his case to MC Shimla on 19.10.2019 for grant of approval for a Petrol Pump retail outlet of M/s Indian Oil Corporation Ltd. On Kh. No. 426/1 at mohalKasumptiJungaNH-05 at km 10.880 (Rhs) (Shimla bye-pass) Tehsil & District-Shimla, H.P., located within the jurisdiction of MC Shimla under Shimla Planning Area.

After detailed technical examination the case was placed in the 53rd meeting of HPAC Meeting held on 13.12.2019. Subsequently the case was forwarded to Chairman Implementation Committee-cum-Director, TCP for further consideration in compliance to the Hon'ble National Green Tribunal Order date 16.11.17, as the case involved relaxation in height of R.C.C. framed structure to reach the road level as well as Change of Land Use from Residential to Petrol Pump.

As there are no specific regulations for Petrol Pump in IDP Shimla or the H.P. TCP Rules, 2014, the case was submitted by the applicant as per standard layout plan approved by the Indian Oil Corporation and other supporting documents/NOC as applicable were also submitted.

Further, the instant case for construction of petrol pump falling in Non-Core area of Shimla Planning Area was placed before the

16th and 17th meetings of Implementation Committee held on 06.03.2020 and 12.05.2020 respectively, and was recommended to the Supervisory Committee for further consideration. Thereafter, the case was placed before the Supervisory Committee in its 8th meeting held on 09.06.2020, whereby the case was approved with certain conditions, being a public utility project as per the directions imparted by the Ld. NGT in its judgment dated 16.11.2017 in O.A. No. 121 of 2014 titled as 'Yogendra Mohan Sengupta versus UoI & Ors.' The relevant extracts of proceedings of the 8th meeting of Supervisory Committee, pertaining to the instant case are as follows.

"3. Case of proposed retail outlet for Sh. Kunal Rai Sethia M/s Indian Oil Corporation Ltd. said to be comprised on Kh. No.426/1 at Mohal Kasumpti Junga NH 05 at Km.10.880 (RHS) (Shimla Bye-Pass) Tehsil & District Shimla (H.P).

Initially the matter was placed before the Implementation Committee in the 16th Meeting. The plans for aforesaid construction have been submitted on land bearing Khasra No.426/1, measuring 789.79 Sqm at Mohal Kasumpti, Shimla. The site is on the valley side of Shimla, Dhalli Bye-pass false within jurisdiction of Municipal Corporation, Shimla. At the road level Petrol Pump is proposed to be set up having canopy, sale office and electrical room and below the road 5 level framed RCC structure comprising columns and cross beams having height 16.25 M over 2.00M plinth is proposed to be constructed. This 5 level framed RCC Structure below the road involves relaxation with reference to order dated 16.11.2017 passed by the Hon'ble National Green Tribunal, which limits the construction of 2+ attic floors in Non-Core Area of Shimla Planning Area. The change of land use is also involved from Residential Use as specified in IDP, Shimla to proposed Petrol Pump and the powers to grant permission for Change of Land use are vested with the Director, Town & Country Planning Department as per Notification dated 28.06.2016.

The case was placed before the Implementation Committee for deciding if the relaxation from 2+ Attic floors to 5 level framed RCC Structure comprising columns and cross beams is to be recommended or not. Keeping in view the nature of the proposed activity as public utility i.e. Petrol Pump, the Implementation Committee had left the decision to the Supervisory Committee.

This case was discussed by the Supervisory Committee and it was decided that since the proposed project is Public Utility, the desired relaxation may be granted in public interest subject to the following conditions:-

- i. **The applicant has to submit the Geological Report of the site to Municipal Corporation, Shimla.**

(Handwritten signatures and initials)

- ii. **The applicant has to submit the Slope Analysis Report of the site to the Municipal Corporation, Shimla.**
- iii. **The applicant will keep the framed structure non-habitable.**
- iv. **The Municipal Corporation, Shimla will ensure that the necessary codal formalities are completed before issuing final permission."**

After due compliance of all the conditions imposed by the Supervisory Committee as cited above, the approval of building plan was given by the Municipal Corporation, Shimla in favor of the applicant on 26.08.2020 for construction/commission of retail outlet of petrol pump.

b)Joint Inspection Details

The joint inspection Committee along with the supporting staff visited the Petrol Pump site on 10.06.2021 at 11:00 A.M. for carrying out detailed inspection and measurements of the actual construction carried out at site, as per scope of work defined in the meeting dated 07.06.2021 held under the Chairmanship of Pr. Secretary, UD & TCP to the Govt. of Himachal Pradesh. The Committee members visited the Site situated at the valley side and thereafter measurements of the existing R.C.C framed structure constructed till date were carried out jointly by the technical field staff of MC Shimla, Divisional Town Planning Office Shimla, Forest Department team in the presence of all Committee Members.

c)Project Checklist- Comparative statement.

As per scope of work and the mandate of the aforesaid Committee, the detailed comparative statement of sanction/approved structure vis-à-vis the actual construction carried out at site, especially w.r.t to the Numbers of Storeys as per approvals conveyed by MC, Shimla, the overall height of building constructed and removal of trees in a planned manner as alleged in the application, are given in the checklist as under.

Sr. No.	Particulars	As approved dated 26.08.2021	Actual Construction at site	Remarks
1	No. of storeys	Proposed Retail Outlet	5 Level R.C.C. columns and	

Handwritten signatures and initials.

Handwritten initials.

Sr. No.	Particulars	As approved dated 26.08.2021	Actual Construction at site	Remarks
		(Petrol pump) at Road Level+5 Level R.C.C Framed Structure (Non habitable) below Road Level with provision for keeping oil storage tanks on one level immediately below road level.	beam framed structure partially constructed (non habitable) below the road level with partly completed one R.C.C slab at road level and another just below the road level for keeping oil storage tanks.	
2	Plinth height i.e. Retaining Wall Height Below non habitable RCC Framed Structure on valley side.	Plinth height i.e. 2.00 mtrs. Retaining wall over natural slope of land.	Plinth R/W of Height Varying from 3.50mtr to 6.0 metres maximum over natural slope of land.	Additional P.C.C/R.C.C. Retaining wall of 4.0 mtrs. Height is under construction at site as a protection measure to make the whole structure stable and earth quake resistant.
3	Height of Frame Structure	16.25 mtrs	15.90 mtrs	0.35 mtrs less than approved.
4	Height of Sales Office/Electrical Room/Canopy	Sales Office & Electrical Rooms= 4.50 Canopy= 7.00 (Non-habitable)	Yet to be constructed.	
5	Geological Report	Submitted to MC Shimla as per Condition imposed by Supervisory Committee	-	
6	Rain Water Harvesting /Drainage Provisions	Proposed	Yet to be constructed.	

Sr. No.	Particulars	As approved dated 26.08.2021	Actual Construction at site	Remarks
7	Slope Analysis Report	Submitted to MC Shimla as per Condition imposed by Supervisory Committee	-	-
8	Structural Stability Certificate	Submitted	-	-
9	Forest NOC regarding distance from forest/trees.	Submitted. Minimum 2.0 Mtrs distance from the line of building construction is proposed in the site plan.	No tree has been removed at site. Only one tree is at 1.88 mtrs. Rest all four trees are at >2.0 mtrs distance from the line of building construction.	Details are shown in attached plan.

d) Details of Inspection as per Scope of Work.

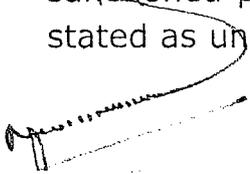
The point wise observations and findings by the joint inspection Committee, as per the detailed checklist at Sr. no. (c) above and the scope of work and the mandate of the aforesaid Committee are elaborated as follow.

1. Numbers of Storeys as per approvals conveyed by MC, Shimla.

The inspection committee perused the case file and the approval/sanction letter and the maps of the instant case vis-à-vis the construction carried out at site. As per the measurement of construction carried out at site, it is observed that the applicant has constructed R.C.C framed structure at 5 levels below road with total height of 15.90 mtrs against approved height of 16.25 mtrs, i.e. 0.35 mtrs less.

Approved plinth height was 2.00mtrs but on the spot plinth height is varying from 3.50mtrs to 6.00mtrs.

Reasons for the variation in plinth height on the spot from the sanctioned plinth height as per the version of the applicant is stated as under:-

ASU
 *JSM* *Q*

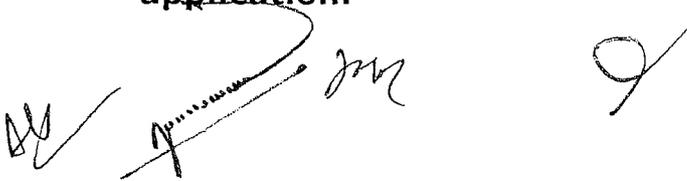
"That is further most respectfully submitted that prior to the approval of the map as directed by the Hon`ble Supervisory Committee a Geological report had been submitted that the perusal of the same would go to reveal that as opined vy the Ld Geologist that according to him there existed 2.25mtrs of over burden of loose strata and foundations were supposed to be laid 1.5mtrs in situ rocks. That during excavation at the site the firm strata was achieved at a depth of 8-9 mtrs below the natural soil level and the structure was raised from the firm strata".

However, the committee also observed that in addition to the constructed five levels below road level at site P.C.C./R.C.C. retaining wall of height varying from 1.50mtrs to 4.0mtrs is under construction as a protection measure to make the whole structure stable and earthquake resistant. The retaining wall was not proposed in the approved plans, but is within the plot boundary.

2. Overall height of building constructed.

- a) The overall height of 5 level non-habitable R.C.C framed structure is 15.90 meters against the approved height of 16.25 meters, i.e. 0.35 meters less.
- b) Retaining wall of 2.0 meters height has been approved in the maps, however the height of R.C.C Columns and R.C.C beams frame work between natural slope of the land and fifth level from road level is varying from 3.50 to 6.0 mtrs instead of approved 2.0 mtrs and another adjoining P.C.C. retaining wall of height varying from 1.50 mtrs to 4.0 mtrs is under construction at site for making the whole structure stable and earthquake resistant.
- c) As per approved plans, the top level Petrol Pump dispensing stations, sales office & electrical room is of 4.5 meters height and Canopy are yet to constructed at site.

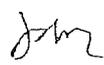
3. Removal of trees in a planned manner as alleged in the application.

Handwritten signatures and initials, including a large signature that appears to be 'M. J.' and another signature that appears to be 'G'.

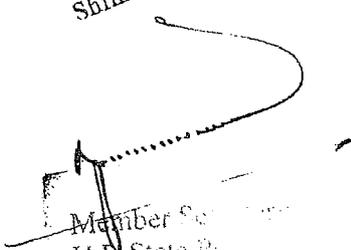
As far as removal of trees in a planned manner as alleged in the application are concerned, the forest team present at site independently ascertained the same and also measured the distance of trees from the built framed structure.

From the comparison the NOC granted by the Forest Department vide Letter dated 05.07.2019 and the supporting report including the site plan clearly showing the location of only one tree within the plot boundary and four trees outside the plot boundary. As per the site inspection **it was ascertained by the Committee that all five trees as per forest NOC dated 05.07.2019 are existing at site, therefore no tree has been removed from the site as alleged.** Further, the minimum distance of 2.0 meters from the all the trees, except one located on the right side on lower valley side has been maintained. The one tree is located at a distance of 1.88 mtrs from the structure. (Report from forest Department enclosed).


Commissioner
Municipal Corporation
Shimla


Director,
Town & Country Planning Deptt.
Himachal Pradesh, Shimla-171009


Chief Conservator of Forests,
Shimla Forest Circle, Shimla


Member Secretary
H.P. State Planning
Shimla-171009

sit of joint site inspection committee on 10.06.2021 in OA No. 61/2021 titled as Abhishek Katara Vs State of HP and Ors on Khasra No. 426/1 Mauza Kasumpati Junga (Shimla Bye Pass road).

The report regarding status of trees in Kh. No. 426/1 Mauza Kasumpati Junga is furnished as under:-

As per record, DFO Shimla (Urban) issued NOC for proposed retail outlet (Kh. No. 426/1 Mauza Kasumpti Junga) vide its letter no. CC/2019-545 dated 05.07.2019 which mentions that five trees are standing along the periphery of the plot, one tree inside the plot boundary and remaining four outside by strictly following the periphery norms of Municipal Corporation, Shimla.

On the day of inspection (10.06.2021), the construction work has taken place in the plot and the distance of trees from the outer boundaries of the constructed area is not same as was reported at the time of issuing NOC, the reason being earlier measurements taken from plot boundary. The status of trees at the time of issuing NOC and on the date of inspection is given as under:-

Sr. No.	Species	Dia Class	Distance of tree from the periphery of plot at the time of NOC issuing (in meter)	Distance of tree from the periphery of the constructed area as on 10.06.2021 (in meter)
1	Deodar	III	2.7	1.88
2	Deodar	III	2.4	4.00
3	Deodar	III	3.7	4.20
4	B/L (<i>Prunus</i>)	V	2	2.70
5	B/L (<i>Prunus</i>)	V	2	2.70

One more Deodar tree IB is standing along the periphery of the constructed area which was at a distance of 1.9 meter not included/ counted being away from the boundary of the plot.

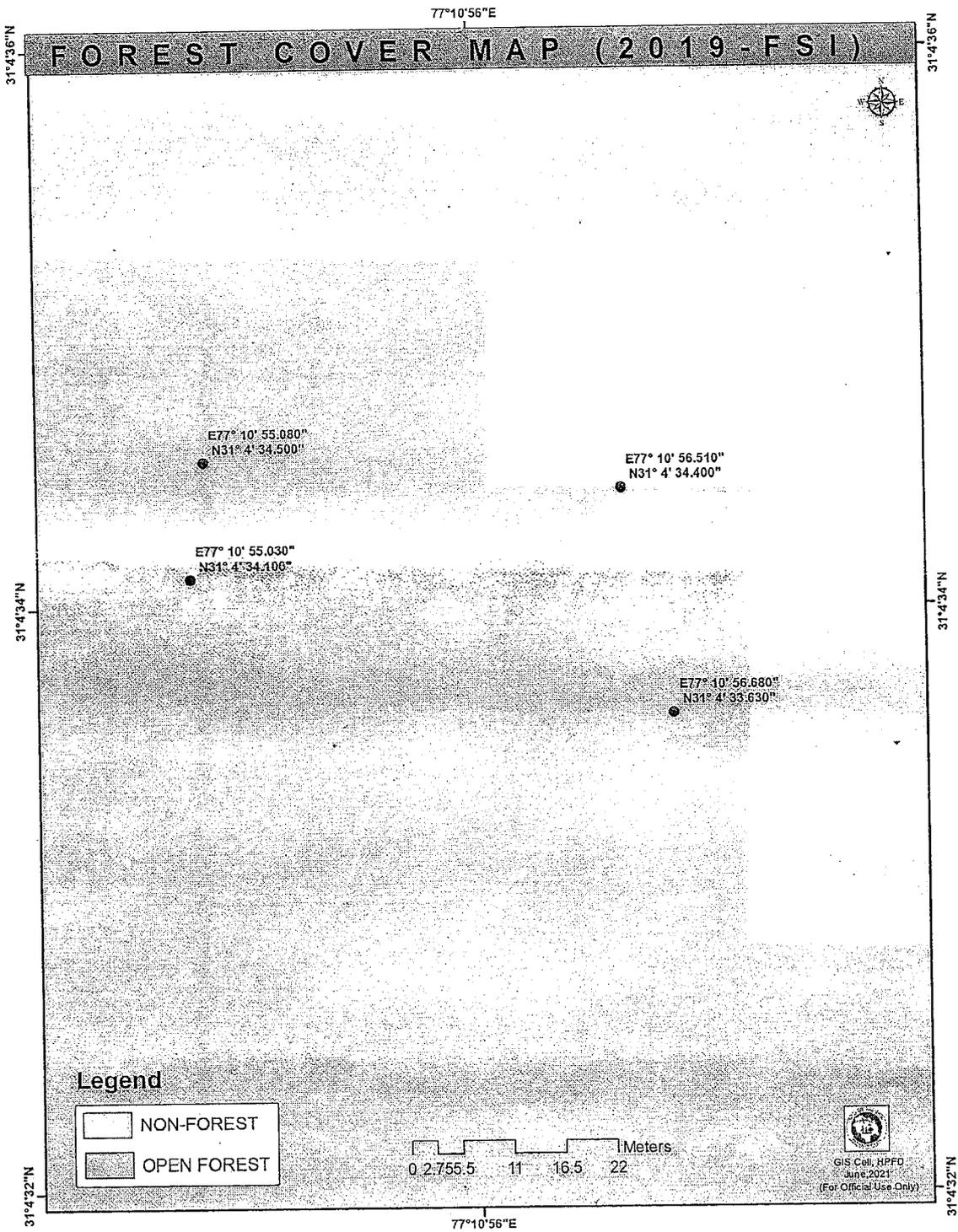
All the six trees are standing there is no damage of any kind to any tree and all the trees are not to be felled keeping in view of MC norms. Along the road side, there is one tree Deodar (IB) in the acquired width of road close to the boundary of the constructed area which needs to be protected.

As regards allegations about removal of trees in a planned manner, the geographical location of the plot is analyzed through the GIS of the department based on processed data of Forest Survey of India, Dehradun for Forest

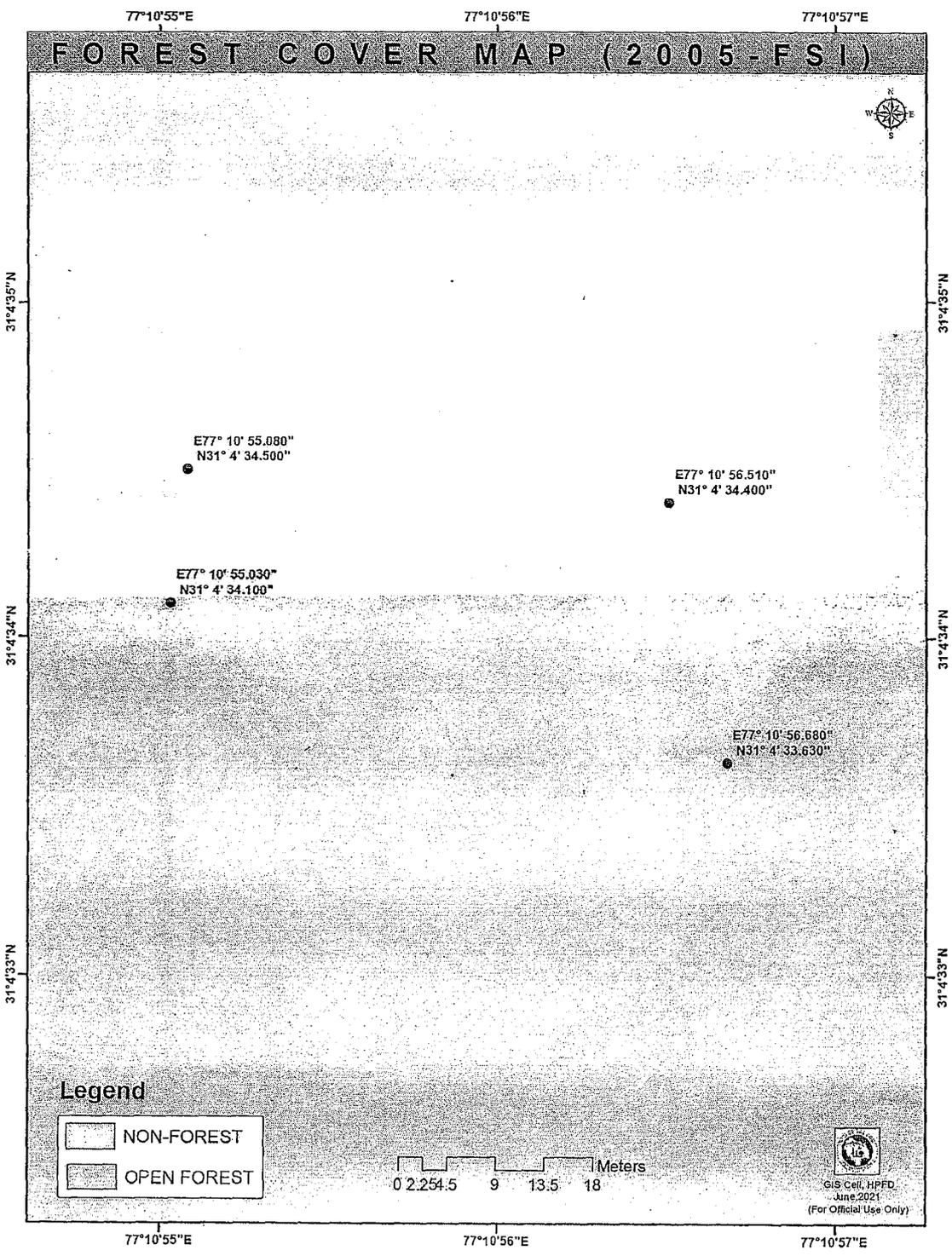
~~-22-~~

Density. As per analyzes the status of land during 2005 was non forest/ open forest during 2019 as open forest. As there is no change in the status of land during 2005 and 2019, the allegation of removal of trees in a planned manner is not correct. Copies of Forest cover map 2005 & 2019 are attached.


14/6/21
Chief Conservator of Forests,
Shimla Forest Circle, Shimla.



-24-



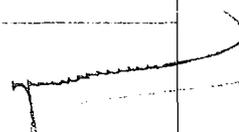
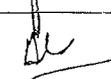
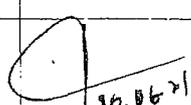
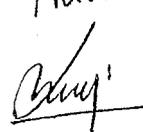
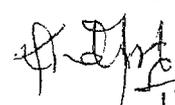
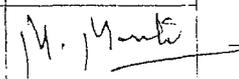
Joint Site Inspection by the Committee constituted in OA No. 61/2021-
Abhishek Katara Vs State of H.P. & Ors.

[Proposed retail outlet for Sh. Kunal Rai Sethia M/s Indian Oil Corporation Ltd. said TP BE comprised on Kh., No. 426/1 at Mohal Kasumpti Junga NH-05 at Km 10.880 (RHS) (Shimla Bye-pass) Tehsil & District-Shimla (HP)].

Attendance Sheet

Dated: 10.06.21

Time: 11.00 AM

Sr. No.	Name	Designation	Department	Signature
	Dr. Nipun Jindal	MS, PCB	PCB	
	Ashish Kohli	Commissioner	M.C. Shimla	
	Kamal Saroch	Director TCP	TCP	
	K.C. Nanta	TCP (we)/STP	TCP Deptt. Tg.	 10.06.21.
	Prem Nataro Chauhan	TCP SHIMLA	TCP Deptt	
	AR. DAVINDER MISTA	ARCHITECT PLANNER	M.C. SHIMLA	 10/06/2021.
	Kapil Kumar Gupta	Junior Engineer AP Branch	M.C. Shimla	 10/06/2021
	Mayank Manta	Law officer	TCP	 M. Manta

Proceeding of the 2nd Joint Committee meeting in compliance to the order dated 10.03.2021 passed by the Hon'ble National Green Tribunal in O.A no. 61 of 2021 held under the Chairmanship of Principal Secretary (Urban Development) to the Government of Himachal Pradesh on dated 05.07.2021 held in the Office Chamber, HP Secretariat at 12.30 P.M.

In pursuance to the order dated 10.03.2021 passed by the Hon'ble National Green Tribunal in O.A.no. 61 of 2021 titled as "Abhishek Katara versus State of Himachal Pradesh and others", 2nd meeting of Joint Committee was convened under the Chairmanship of Sh. Rajneesh (IAS), Principal Secretary (Urban Development) to the Government of Himachal Pradesh

The meeting was attended by the following officers/ officials:-

1. Shri Kamal Kant Saroch (IAS), Director, Town & Country Planning, Himachal Pradesh, Shimla-9
2. Shri Apoorv Devgan (IAS), Member Secretary, HP State Pollution Control Board, Shimla-9.
3. Shri S.D. Sharma, (IFS), Chief Conservator of Forests (Finance), Shimla-1.
4. Shri Ashish Kohli (HAS), Commissioner, Municipal Corporation, Shimla-1.
5. Shri Karam Chand Nanta, State Town Planner, Town & Country Planning Department, Shimla-9, H.P.
6. Shri Davinder Mista, Architect Planner, Municipal Corporation, Shimla, H.P.
7. Shri Lalit Thakur, Environmental Engineer, HP State Pollution Control Board, Shimla-9.
8. Shri Deepak Dogra, Jr. Environmental Engineer, HP State Pollution Control Board, Shimla-9.
9. Shri Mayank Manta- Additional District Attorney cum Law Officer, Town & Country Planning Department, Shimla-9, H.P

In its earlier meeting dated 07.06.2021, it was decided that the Inspection & Action Committee shall carry out a joint site inspection to ascertain factual position on the allegations made by the Applicant before the Hon'ble National Green Tribunal along with action taken, if any.

At the outset, the detailed discussion regarding the genesis and brief facts of the case were discussed. It was apprised by the representative on behalf of Department of Town & Country Planning that for the approval of the planning permission in **non-core area of Shimla Planning area** by High powered Expert Committee (Supervisory/ Implementation Committee, the matter in question has been examined strictly by the aforesaid Committee in view of following directions under para 112 passed by this Hon'ble Tribunal vide its judgment dated 16.11.2017 in O.A.no. 121 of 2014 titled as "Yogendra Mohan Sengupta versus Union of India & ors.", as under:-

"Para 112 (III.) Beyond the Core, Green/Forest area and the areas falling under the authorities of the Shimla Planning Area, the construction may be permitted strictly in accordance with the provisions of the TCP Act, Development Plan and the Municipal laws in force. Even in these areas,

construction will not be permitted beyond two storeys plus attic floor. However, restricted to these areas, if any construction, particularly public utilities (the buildings like hospitals, schools and offices of essential services but would definitely not include commercial, private builders and any such allied buildings) are proposed to be constructed beyond two storeys plus attic floor then the plans for approval or obtaining NOC shall be submitted to the concerned authorities having jurisdiction over the area in question. It would be sanctioned only after the same have been approved and adequate precautionary and preventive measures have been provided by the special committee constituted under this judgment along with the Supervisory Committee.

Para 112 (XX.)The Committee shall also deal with the recommendations in relation to zoning policy and would keep in mind the factor of vulnerability risk assessment. The Committee may also make recommendations for permitting construction of buildings of exceptional nature like hospital, fire-brigade or public utility services but strictly in consonance with the laws in force."

In light of the directions passed by this Hon'ble Tribunal's judgment dated 16.11.2017, the following broad parameters/working principles have been taken as a benchmark while considering the cases before the Committee including the present case of the private respondents.

- i. Whether the case lies in Core/Green/ Non-Core Area.
- ii. Whether approval process in the case was initiated before the Hon'ble NGT Order.
- iii. Whether the particular case is of exceptional nature or a public utility as per order para 112 (XX) of the judgment dated 16.11.2017 of the Hon'ble National Green Tribunal.
- iv. Whether the case falls under the ambit of Interim Development Plan (IDP) Shimla regulations or it involves any further relaxations.
- v. Whether case falls within the competency of Supervisory Committee or needs to be referred to the Hon'ble NGT.

The following criteria are taken into consideration for evaluating each case, as per applicability.

- i. Project of exceptional nature /Public utility (the buildings like hospitals, schools and offices of essential services)
- ii. Factors of vulnerability risk assessment.
 - Structural Stability Certificate/Design report.
 - Geological Report.
 - Environmental clearance.
 - Fire and life safety provisions.
 - Rain water harvesting provisions.
 - Project justification report/note.

- Case specific orders/directions by the Hon'ble Supreme Court/High Court/NGT.

It was further discussed during the course of meeting that the case of the private respondents was placed before the High powered expert Committee before the 16th meeting of Implementation Committee held on 06.03.2020 (Copy enclosed as Annexure-A) & 17th meeting dated 12.05.2020 (Copy enclosed as Annexure-B) and thereafter before Supervisory Committee as agenda item in its 8th meeting held on 09.06.2020 (Copy enclosed as Annexure-C). The Supervisory Committee had observed that a 5 level framed RCC structure (non-habitable) comprising columns and cross beams having height 16.25 M and 2.00M plinth, i.e. the retaining wall over natural slope of land has been proposed to be constructed. It was decided that since the proposed project is Public Utility, the desired relaxation may be granted in public interest subject to the following conditions:-

- i. The applicant has to submit the Geological Report of the site to Municipal Corporation, Shimla.
- ii. The applicant has to submit the Slope Analysis Report of the site to the Municipal Corporation, Shimla.
- iii. The applicant will keep the framed structure non-habitable.
- iv. The Municipal Corporation, Shimla will ensure that the necessary codal formalities are completed before issuing final permission."

It is pertinent to note that under section 3 read with Schedule 1 of Essential Commodities Act, 1955, Petroleum & Petroleum Products are classified as essential commodities.

Furthermore as per Schedule 1 and Section 2(n) of the Industrial Dispute Act, 1947, it is clearly evident that the motor and aviation spirit, diesel oil etc. have been held to have fallen within the definition of Public Utility. (The copies of relevant notification issued by the Ministry of Labour & Employment are hereby annexed as Annexure-D).

This Committee observed that since, it has been categorically mentioned in para 112 of the judgment dated 16.11.2017 passed by Hon'ble Tribunal in O.A. No. 121 of 2014 that in respect of construction qua public utility sanction can be accorded by High powered expert Committee for obtaining NOC from the concerned authorities, which has been done in the present case, the aforesaid Committee had accorded its approval after deliberating upon the judgment of Hon'ble Tribunal.

The Approval of building plan was then sanctioned by the Municipal Corporation Shimla in favour of private respondents on 26.08.2020 for construction/commission of retail outlet of petrol pump, being a public utility. Furthermore, as per para 112 (XVII) of the judgment dated 16.11.2017 passed by the Ld. NGT, the 'High Powered Expert Committee', has been entrusted for carrying out the

specific directions under this judgment and provide NOC or other necessary permissions to the stakeholders, whether State or private parties.

During the course of meeting, the factual and action taken report dated 10.06.2021 in compliance to the directions of the Ld. National Green Tribunal was placed before this Joint Committee and the same was discussed at length. As per the detailed joint site inspection report, following conclusions have been derived:

"1. Report on number of storeys, building height etc.

*The inspection committee perused the case file and the approval/sanction letter and the maps of the instant case vis-à-vis the construction carried out at site. As per the measurement of construction carried out at site, **it is observed that against the approval of Competent Authority for constructing a 5level framed RCC structure (non-habitable) comprising columns and cross beams having height 16.25 M and 2.00M plinth, i.e. the retaining wall over natural slope of land, the applicant has constructed R.C.C framed structure at 5 levels below road with total height of 15.90 mtrs, i.e. 0.35 mtrs less. However, the approved plinth height was 2.00mtrs but on the spot plinth height is varying from 3.50mtrs to 6.00mtrs.***

Reasons for the variation in plinth height on the spot from the sanctioned plinth height as per the version of the applicant are stated as under:-

"That is further most respectfully submitted that prior to the approval of the map as directed by the Hon`ble Supervisory Committee a Geological report had been submitted that the perusal of the same would go to reveal that as opined by the Ld Geologist that according to him there existed 2.25mtrs of over burden of loose strata and foundations were supposed to be laid 1.5mtrs in situ rocks. That during excavation at the site the firm strata was achieved at a depth of 8-9 mtrs below the natural soil level and the structure was raised from the firm strata.

The committee also observed that in addition to the constructed five levels below road level at site P.C.C. /R.C.C. retaining wall of height varying from 1.50mtrs to 4.0mtrs is under construction as a protection measure to make the whole structure stable and earthquake resistant. The retaining wall was not proposed in the approved plans, but is within the plot boundary and is for structural stability of the building..."

"3. Removal of trees in a planned manner as alleged in the application.

As far as removal of trees in a planned manner as alleged in the application are concerned, the Inspection & Action Committee present at site independently ascertained the same and also measured the distance of trees from the built framed structure. From the comparison the NOC granted by the Forest Department vide Letter dated 05.07.2019 and the supporting report including the site plan clearly showing the location of only one tree within the plot boundary and four trees outside the plot boundary. Further, the minimum distance of 2.0 meters from the all the

trees, except one located on the right side on lower valley side has been maintained. The one tree is located at a distance of 1.88 mtrs from the structure". . .

The Commissioner, Municipal Corporation Shimla apprised the Committee that a notice dated 04.06.2021 under the provisions of HP Municipal Corporation Act, 1994 has already been issued to the private respondents to stop the construction activities at the site till final disposal of the matter in question.

It was decided that the action taken report be filed at its earliest before the Ld. National Green Tribunal by the HP State Pollution Control Board.

The meeting ended with a vote of thanks to and from the Chair.


Principal Secretary
(Urban Development)
to the Government of Himachal Pradesh

No. PCB/Ros/CA No. 61/2021 - 533-35

Dated: 06/07/2021

Copy forwarded to:-

1. Director, Town and Country Planning Department, Shimla-09, for information and necessary action, please.
2. Principal Chief Conservator of Forests, Shimla-1, for information and necessary action, please
3. The Commissioner, Municipal Corporation, Himachal Pradesh, Shimla-01, for information and necessary action, please.


Member Secretary,
HP State Pollution Control Board, Shimla-9

16th Meeting of the Implementation Committee in pursuance to the order of the Hon'ble National Green Tribunal dated 16th November, 2017 in OA No. 121/2014.

PROCEEDINGS OF THE 16th MEETING OF IMPLEMENTATION COMMITTEE HELD IN THE CONFERENCE HALL OF DIRECTORATE OF TOWN AND COUNTRY PLANNING DEPARTMENT, SHIMLA ON 6th MARCH, 2020.

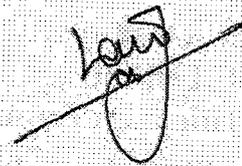
The 16th Meeting of the Implementation Committee was held in the Conference Hall of the Directorate of Town and Country Planning Department, Shimla on 6th March, 2020 under the Chairmanship of Chairman, Implementation Committee -cum- Director, Town and Country Planning Department. The list of participants who attended the meeting is annexed at Annexure A.

At the outset, the Chairman welcomed all the Members. Thereafter, detailed deliberations were held as given below.

1. Review of the action taken with reference to the proceedings of the 15th Meeting of Implementation Committee held on 30.12.2019.
 - a. Discussion regarding finalization of draft Memorandum of Practices as received from the TCP, Forest, UD Department, MC Shimla, Geological wing of Industries Department and Environment, Science & Technology Department w.r.t. directions given in Para IX of the order dated 16.11.2017.

Regarding 'Memorandum of Practice (MoP)' it was apprised that approval has been granted by the Govt. on 5th April, 2019 and the same has been circulated to the respective departments for implementation. It was decided in the earlier meeting that monthly report regarding implementation of this 'Memorandum of Practice (MoP)' will be submitted by the concerned departments but, the same has not been received. The format regarding this was also circulated but the report has not been received yet. It was decided that a reference will be sent to the concerned Departments in this regard.

- b. Discussion regarding finalization of draft Action Plans on Mobility, Disaster Management, Water Supply & Sewerage, and Solid Waste Management Sectors with the conveners of the constituted Sub-Committees.



16th Meeting of the Implementation Committee in pursuance to the order of the Hon'ble National Green Tribunal dated 16th November, 2017 in OA No. 121/2014.

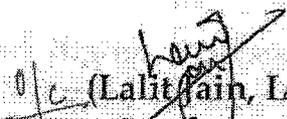
issue has been further deliberated upon in view of the order and directions of Hon'ble High Court of Himachal Pradesh, whereby the construction proposed to be raised have been directed to be shifted to the nearby vicinity and in view of the already sanctioned of the approval Planning Permission. Considering qua the directions of the Hon'ble High Court and the clarification dated 01.02.2018 issued by the Law Department, the Municipal Corporation, Shimla was directed to decide the matter and submit a compliance report to this Committee.

8. Any other items with the permission of the Chair.

- a. Proposed retail outlet for Sh. Kunal Rai Sethia M/s Indian Oil Corporation Ltd. said TP BE comprised on Kh., No. 426/1 at Mohal Kasumpti Junga NH-05 at Km 10.880 (RHS) (Shimla Bye-pass) Tehsil & District- Shimla (HP).

The matter was discussed at length before the Committee and it was submitted before the Committee that the plans for the aforesaid construction have been submitted for the site on valley side of Shimla-Dhalli Bye-pass and RCC frame structure comprising columns and cross beams having height 16.25 M over 2.00 M plinth. The built structure of 5 storey below road level involves relaxation in number of storey with reference to order dated 16.11.2017 passed by the Hon'ble National Green Tribunal, which limits the construction to 2+ Attic floors in Non-Core Area of Shimla Planning Area. Keeping in view the nature of the proposed activity i.e. public utility/ petrol pump the Implementation Committee has left the decision to the Supervisory Committee.

The meeting ended with the vote of thanks to and from the Chair.


(Lalit Jain, IAS)
Chairman, Implementation Committee
-cum- Director, Town & Country Planning
Department, Shimla - 171009 (HP)
Phone No. 0177-2622494.

No. HIM/TP/PP/P.Reg/I.C./NGT/2019/Vol-III Shimla, Dated: 16.5.20
Copy to: - *-VSC-68*

1. The Secretary (TCP) to the Government of Himachal Pradesh, Shimla for information, please.
2. The Joint Advisor (MP&P), National Disaster Management Authority, NDMA Bhawan, A-1, Safdarjung Enclave, New Delhi-29, for information, please.
3. The Architect- in Chief, Public Works Department, Himachal Pradesh, Shimla-2 - Member, for information, please.
4. The Member Secretary, H.P. Pollution Control Board, New Shimla-9, for information, please.
5. The Director, Wadia Institute of Himalayan Geology, Dehradun, - Member, for information, please.
6. The Director, Urban Development Department, Himachal Pradesh, Shimla-2, for information, please.
7. The Director, Department of Environment, Science & Technology, Himachal Pradesh, Shimla-2, for information, please.
8. The Commissioner, Municipal Corporation, Himachal Pradesh, Shimla-2 - Member, for information and for taking further action as mentioned in the proceedings, please.
9. The State Town Planner, Town and Country Planning Department, Shimla-9 - Member, for information, please.
10. The State Geologist, Department of Industries, Himachal Pradesh, Shimla, for information, please.
11. The Town and Country Planner (HQ) -cum- Member Secretary, Town and Country Planning Department, Shimla-9.
12. The Law Officer, Town and Country Planning Department, Shimla-9,
13. All the Participants.

raj
/c (Lalit Jain, IAS)
Chairman, Implementation Committee
-cum- Director, Town & Country Planning
Department, Shimla - 171009 (HP)
Phone No. 0177-2622494.

17th Meeting of the Implementation Committee in pursuance to the order of the Hon'ble National Green Tribunal dated 16th November, 2017 in OA No. 121/2014.

PROCEEDINGS OF THE 17th MEETING OF IMPLEMENTATION COMMITTEE HELD THROUGH VIDEO CONFERENCING ON 12th MAY, 2020 AT 3:00 PM.

The 17th Meeting of the Implementation Committee was held on 12th May, 2020 under the Chairmanship of Chairman, Implementation Committee -cum- Director, Town and Country Planning Department through Video Conferencing. The meeting was attended by the following:-

1. Sh. Lalit Jain, Director, Town and Country Planning Department, Shimla-9 - Chairman.
2. Sh. P.S. Negi, Chief Architect, Public Works Department, Himachal Pradesh, Shimla-2 - Member.
3. Smt. Anjali Sharma, Town & Country Planner (Shimla), Officiating State Town Planner, Town and Country Planning Department, Shimla-9 - Member.
4. Sh. Ajeet Kumar, Sr. Environmental Engineer, H.P. State Pollution Control Board, New Shimla-9 - Member.
5. Sh. Rajeev Sharma, Sr. Architect Planner, Municipal Corporation, Himachal Pradesh, Shimla-2. (Representing Commissioner, Municipal Corporation, Shimla- Member).
6. Sh. Vivek Sharma, Senior Consultant- Disaster Management, H.P. State Disaster Management Authority, Himachal Pradesh, Shimla-1. (Representing Special Secretary, Revenue- Disaster Management to the Govt. of HP- Member).
7. Sh. Karam Chand Nanta, Assistant Town Planner (HQ), Officiating Town & Country Planner (HQ), Town and Country Planning Department, Shimla-9- Member Secretary.
8. Ms. Sanika Pathania, Planning Officer (HQ), Town and Country Planning Department, Shimla-9.
9. Sh. Mayank Manta, Law Officer, Town and Country Planning Department, Shimla-9.

At the outset, the Chairman welcomed all the Members. Thereafter, detailed deliberations were held which are as follows.

k. Proposed Drawings for construction of Govt. Senior Secondary School Sanjauli on Kh. No. 424,425,426 and 427 at Upmohal-Sanjauli Chowk.

As per discussion held in the earlier meeting of Implementation Committee it was decided that the matter may be examined by the Municipal Corporation, Shimla and complete details of the case may be presented in the next meeting of the Implementation Committee which will be scheduled as per Govt. orders regarding containment of COVID-19 pandemic.

l. The approval of Drawing of BDO Block Development Officer building Mashobra.

The matter was recommended to be considered by the Supervisory Committee and the same will be done in the next Meeting of the Supervisory Committee. The same will be scheduled shortly as per Govt. orders regarding containment of the COVID-19 pandemic.

m. Proposed plan for the construction of one number new Barrack at Police line Kaithu, Shimla on Khasra No. 328,337,338,339,374 to 377, 378 to 385 and 805 at up mohal Upper Kaithu, Shimla in favour of Superintendent of Police, Distt. Shimla.

As per discussion held in the earlier meeting of Implementation Committee it was decided that the Municipal Corporation, Shimla may decide the matter at their own end and a compliance report be sent to the Director, TCP. The same is still awaited.

n. Proposed retail outlet for Sh. Kunal Rai Sethia M/s Indian Oil Corporation Ltd. said TP BE comprised on Kh., No. 426/1 at Mohal Kasumpti Junga NH-05 at Km 10.880 (RHS) (Shimla Bye-pass) Tehsil & District- Shimla (HP).

The matter was recommended to be considered by the Supervisory Committee and the same will be done in the next Meeting of the Supervisory Committee. The same will be scheduled shortly as per Govt. orders regarding containment of the COVID-19 pandemic.

17th Meeting of the Implementation Committee in pursuance to the order of the Hon'ble National Green Tribunal dated 16th November, 2017 in OA No. 121/2014.

legally permissible structural limits of the old building and for the same/permissible legal use. The Competent Authority shall sanction the plans and/or approve the same only to that extent and no more; under any circumstances such plans must not be beyond two storeys and an attic floor and only for residential purpose”.

The Implementation Committee decided that considering the public utility and importance of the Secretariat building firstly the comments may be sought from the members of the State Heritage Advisory Committee through email regarding the design/character/building materials etc. thereafter, the case may be placed before the Supervisory Committee.

5. Proposal construction of Mountain Township at Jathia Devi, Shimla.

The matter was discussed and it was apprised that the case has been sent to the Divisional Town & Country Planning Office, Shimla for further examination. The same will be placed in the next meeting after it is received from the field office.

The meeting ended with the vote of thanks to and from the Chair.


(Lalit Jain, IAS)
Chairman, Implementation Committee
-cum- Director, Town & Country Planning
Department, Shimla - 171009 (HP)
Phone No. 0177-2622494.

No. HIM/TP/PP/P.Reg/I.C./NGT/2019/Vol-III Shimla, Dated: 21-5-20
Copy to: - 685-97

1. The Secretary (TCP) to the Government of Himachal Pradesh, Shimla for information, please.
2. The Joint Advisor (MP&P), National Disaster Management Authority, NDMA Bhawan, A-1, Safdarjung Enclave, New Delhi-29, for information, please.
3. The Chief Architect, Public Works Department, Himachal Pradesh, Shimla-2 - Member, for information, please.

17th Meeting of the Implementation Committee in pursuance to the order of the Hon'ble National Green Tribunal dated 16th November, 2017 in OA No. 121/2014.

4. The Sr. Environmental Engineer, H.P. Pollution Control Board, New Shimla-9, for information, please.
5. The Director, Wadia Institute of Himalayan Geology, Dehradun, - Member, for information, please.
6. The Director, Urban Development Department, Himachal Pradesh, Shimla-2, for information, please.
7. The Director, Department of Environment, Science & Technology, Himachal Pradesh, Shimla-2, for information, please.
8. The Commissioner, Municipal Corporation, Himachal Pradesh, Shimla-2 - Member, for information and for taking further action as mentioned in the proceedings, please.
9. The State Town Planner, Town and Country Planning Department, Shimla-9 - Member, for information, please.
10. The State Geologist, Department of Industries, Himachal Pradesh, Shimla, for information, please.
11. The Town and Country Planner (HQ) -cum- Member Secretary, Town and Country Planning Department, Shimla-9.
12. The Law Officer, Town and Country Planning Department, Shimla-9,
13. All the Participants.


o/c (Lalit Jain, IAS)
Chairman, Implementation Committee
-cum- Director, Town & Country Planning
Department, Shimla - 171009 (HP)
Phone No. 0177-2622494.

Meeting of the Supervisory Committee held on 9th June, 2020, in pursuance to the order of the Hon'ble National Green Tribunal dated 16th November, 2017 in OA No. 121/2014.

PROCEEDINGS OF THE 8th MEETING OF SUPERVISORY COMMITTEE HELD UNDER THE CHAIRMANSHIP OF SECRETARY (TCP) TO THE GOVT. OF H.P. IN THE CHAMBER OF SECRETARY (TCP) HP SECRETARIAT, SHIMLA, ON 9th JUNE, 2020.

The 8th Meeting of the Supervisory Committee constituted in pursuance to the orders of the Hon'ble National Green Tribunal dated 16th November, 2017 in OA No. 121/2014 titled as Yogendra Mohan Sengupta Vs Union of India & Others was held under the Chairmanship of Secretary (TCP) to the Govt. of H.P. in the Chamber of Secretary (TCP) on 9th June, 2020. The meeting was attended by the following:-

1. Sh. Rohan Chand Thakur, Director, Town and Country Planning Department, Shimla-9 - Member Secretary.
2. Sh. D.C. Rana, Special Secretary (Revenue-DM) to the Govt. of H.P.
3. Sh. Aditya Negi, Member Secretary, H.P. State Pollution Control Board.
4. Dr. Vikram Gupta, Wadia Institute of Himalayan Geology, Dehradun (Through Video Conferencing).
5. Dr. Geeta Arora, Associate Professor, Punjab Engineering College Chandigarh (Through Video Conferencing).
6. Sh. Rajeev Sharma, Sr. Architect Planner, Municipal Corporation, Shimla.
7. Smt. Anjali Sharma, State Town Planner (officiating), Town and Country Planning Department.
8. Sh. K.C. Nanta, Town and Country Planner (HQ) (officiating), Town and Country Planning Department.
9. Ms. Sanika Pathania, Planning Officer (HQ), Town and Country Planning Department.
10. Sh. Mayank Manta, Law Officer, Town & Country Planning Department.

At the outset, the Member Secretary with permission of the Chair welcomed all the Members and Officers present in the meeting. Thereafter, the agenda items were deliberated upon one by one.

1. Review of the proceedings of the 7th Meeting of Supervisory Committee held on 27.01.2020.

Meeting of the Supervisory Committee held on 9th June, 2020, in pursuance to the order of the Hon'ble National Green Tribunal dated 16th November, 2017 in OA No. 121/2014.

			COVID-19 pandemic.
--	--	--	-----------------------

2. Review of the proceedings of the 17th Meeting of Implementation Committee held on 12.05.2020.

It was unanimously decided that the proceedings of the meeting of the Implementation Committee will not be reviewed by this Committee.

3. Case of proposed retail outlet for Sh. Kunal Rai Sethia M/s Indian Oil Corporation Ltd. said to be comprised on Kh., No. 426/1 at Mohal Kasumpti Junga NH-05 at Km 10.880 (RHS) (Shimla Bye-Pass) Tehsil & District- Shimla (HP).

Initially the matter was placed before the Implementation Committee in the 16th Meeting. The plans for aforesaid construction have been submitted on land bearing Khasra No. 426/1 measuring 789.79 Sqm at Mohal- Kasumpti, Shimla. The site is on valley side of Shimla- Dhalli Bye-pass falls within the jurisdiction of Municipal Corporation, Shimla. At the road level Petrol Pump is proposed to be set up having canopy, sale office and electrical room and below the road 5 level framed RCC Structure comprising columns and cross beams having height 16.25 M over 2.00 M plinth is proposed to be constructed. This 5 level framed RCC Structure below the road involves relaxation with reference to order dated 16.11.2017 passed by the Hon'ble National Green Tribunal, which limits the construction to 2+ Attic floors in Non-Core Area of Shimla Planning Area. The change of land use is also involved from Residential Use as specified in IDP, Shimla to proposed Petrol Pump and the powers to grant permission for Change of Landuse are vested with the Director, Town & Country Planning Department as per Notification dated 28.06.2016.

The case was placed before the Implementation Committee for deciding if the relaxation from 2+ Attic floors to 5 level framed RCC Structure comprising columns and cross beams is to be recommended or not. Keeping in view the nature of the proposed activity as public utility i.e. Petrol Pump the Implementation Committee had left the decision to the Supervisory Committee.

The case was discussed by the Supervisory Committee and it was decided that since the proposed project is Public Utility the desired relaxation may be granted in public interest subject to following conditions:-

Meeting of the Supervisory Committee held on 9th June, 2020, in pursuance to the order of the Hon'ble National Green Tribunal dated 16th November, 2017 in OA No. 121/2014.

- i. The applicant has to submit the Geological Report of the site to the Municipal Corporation, Shimla.
- ii. The applicant has to submit the Slope Analysis Report of the site to the Municipal Corporation, Shimla.
- iii. The applicant will keep the framed structure non-habitable.
- iv. The Municipal Corporation, Shimla will ensure that the necessary codal formalities are completed before issuing final permission.

4. Case of Proposed Plan of Rain Shelter at IGMC Medical Collage, Shimla on Kh. No. 1544 at up Mohal Lakkar Bazar, Shimla.

Initially the matter was placed before the Implementation Committee in the 16th Meeting. The matter was discussed by the Implementation Committee and it was informed that the structure is to be constructed in Core Area of Shimla Planning Area having 3.62 M height and built-up area of 10.8 Sqm. It has been stated in the directions as contained in Para No. 112.II of the order dated 16.11.2017 of the Hon'ble National Green Tribunal that, *"We hereby prohibit new construction of any kind, i.e. residential, institutional and commercial to be permitted henceforth in any part of the Core and Green/Forest area as defined under the various Notifications issued under the Interim Development Plan as well, by the State Government."* However, the proposed construction of the rain shelter at the site is a public amenity and essentially required for the visitors who visit the Indira Gandhi Medical College (Hospital) for diagnosis and treatment. Further, there is no such rain shelter existing in the vicinity and in all profanities will serve the public interest. The judgment passed by the Hon'ble National Green Tribunal had conferred powers to this Implementation/Supervisory Committee under Para No. 145 (XX) stating that, *"The Committee shall also deal with the recommendations in relation to zoning policy and would keep in mind the factor of vulnerability risk assessment. The Committee may also make recommendations for permitting construction of buildings of exceptional nature like hospital, fire-brigade or public utility services but strictly in consonance with the laws in force."* Keeping in view the aforesaid direction and been a matter of public interest the Implementation Committee had recommended case to be considered before the Supervisory Committee.

The case was discussed by the Supervisory Committee and it was decided that the proposed structure is a small ancillary public utility on the roadside and can be considered for approval in public interest.

Meeting of the Supervisory Committee held on 9th June, 2020, in pursuance to the order of the Hon'ble National Green Tribunal dated 16th November, 2017 in OA No. 121/2014.

but would definitely not include commercial, private builders and any such allied buildings) are proposed to be constructed beyond two storeys plus attic floor then the plans for approval or obtaining NOC shall be submitted to the concerned authorities having jurisdiction over the area in question. It would be sanctioned only after the same have been approved and adequate precautionary and preventive measures have been provided by the special committee constituted under this judgement along with the Supervisory Committee." Keeping in view these directions/ facts and on the same analogy as adopted while granting permission to the other public buildings the instant case was recommended by the Implementation Committee for approval to the Supervisory Committee with the conditions that all the directions issued by the Hon'ble National Green Tribunal with reference to the rain harvesting systems, solar passive provisions, firefighting provisions are to be adhered to make the building environment friendly.

The case was discussed by the Supervisory Committee. Dr. Vikram Gupta emphasized that slope and structure stability must be kept into consideration for granting permission. Dr. Geeta Arora discussed the issue of restricting number of storeys of the proposed building to 2+Attic as per directions of the Hon'ble National Green Tribunal. The Committee deliberated the nature of functional requirements of the office of the Block Development Officer which entails close public interface with Panchayati Raj Institutions (PRIs), elected members of PRIs and general public for which open space around the office building is functionally needed and hence vertical expansion is more suitable rather than horizontal expansion.

The committee decided that the proposed structure is a public utility building and an important Govt. office which is the link between the Government and Panchayati Raj Institutions at grass root level. Hence, the case was considered for approval in public interest with relaxation in one additional floor w.r.t. order dated 16.11.2017.

The meeting ended with the vote of thanks to and from the Chair.


o/c (Rajneesh, IAS)
Secretary (TCP)

to the Govt. of Himachal Pradesh
Shimla - 171002

No. HIM/TP/PP/P. Reg./ S.C./ NGT/ 2018/ Vol- I Shimla, Dated: 26.6.20
Copy to:- 1862-73

Meeting of the Supervisory Committee held on 9th June, 2020, in pursuance to the order of the Hon'ble National Green Tribunal dated 16th November, 2017 In OA No. 121/2014.

1. The Secretary (TCP) to the Govt. of Himachal Pradesh, Shimla -02. - Chairman, for information & necessary action, please.
2. The Joint Secretary (Mitigation), National Disaster Management Authority, Govt. of India, NDMA Bhawan, A-I, Safdarjung Enclave, New Delhi-29, for information, please.
3. The Special Secretary (Revenue-DM) to the Govt. of H.P. for information & necessary action, please.
4. The Member Secretary, H.P Pollution Control Board, New Shimla-171009, for information & necessary action, please.
5. The Director, Wadia Institute of Himalayan Geology, Dehradun, for information & necessary action, please.
6. The Director, Punjab Engineering College Chandigarh, for information & necessary action, please.
7. Dr. Vikram Gupta, Wadia Institute of Himalayan Geology, Dehradun, - Member, for information & necessary action, please.
8. Dr. Geeta Arora, Associate Professor, Punjab Engineering College Chandigarh, for information & necessary action, please.
9. The Commissioner, Municipal Corporation, Himachal Pradesh, Shimla-02, for information & necessary action, please.
10. The State Town Planner, Town and Country Planning Department, Shimla-09, for information & necessary action, please.
11. Town and Country Planner (HQ) and Law Officer, Town & Country Planning Department for information and necessary action, please.
12. All the participants.


o/c (Rohan Chand Thakur, IAS)
Director

Town and Country Planning Department,
Himachal Pradesh, Shimla - 171009,
Phone No. 0177-2622494.

-44-

MINISTRY OF LABOUR AND EMPLOYMENT

NOTIFICATION

New Delhi, the 27th May, 2020

S.O. 1661(E).—Whereas the Central Government is satisfied that the public interest so requires that the services of the industry engaged in the processing or production or distribution of fuel gases (coal gas, natural gas and the like), which is covered under item 29 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), to be a public utility service for the purposes of the said Act;

And whereas the Central Government has lastly declared the said industry to be public utility service for the purposes of the said Act for a period of six months with effect from the 24th October, 2019 vide notification of the Government of India in the Ministry of Labour and Employment number S.O. 3728(E), dated the 17th October, 2019;

And whereas the Central Government is of the opinion that public interest requires the extension of the public utility service status to the said industry for a further period of six months from the date of publication of this notification;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (a) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government, hereby declares from the date of publication of this notification the said services of the industry engaged in the processing or production or distribution of fuel gases (coal gas, natural gas and the like) to be a public utility service for the purposes of the said Act for a period of six months.

[F.No. 5-11017/2/2017-IR(PL)]
KALPANA RAISINGHOT, J. Secy.