

**State Level Environment Impact Assessment Authority
Himachal Pradesh**

At Department of Environment, Science & Technology
US Club, Paryavaran Bhawan, Shimla-171001.

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

In the matter of Original Application No. 55/ 2020
(I.A. No. 110/ 2020 & I. A. No. 111/2020)

Dr. Pawan Kumar Banta Vs. Union of India and ors.

The action taken report in compliance to the orders of Hon'ble NGT dated 12-05-2020 is attached herewith as Annexure A-F for kind information and further necessary action.

Submitted by


29/8/20

(D.C. Rana)

Member Secretary,
HP State Environment Impact Assessment Authority,
-cum- Director, (Env., Sci. & Tech.)
Himachal Pradesh Shimla, 171001.

NO. SEIAA/2015/360- NGT 55/2020- 1600 -

the Shimla dated 29th August, 2020.

Encls: Action Taken Report with Annexures.

**State Level Environment Impact Assessment Authority
Himachal Pradesh**

At Department of Environment, Science & Technology
US Club, Paryavaran Bhawan, Shimla-171001.

dated, the Shimla, ^H29 August, 2020.

Action Taken Report:

Ref. Orders of Hon'ble National Green Tribunal in the matter of Dr. Pawan Kumar Banta vs. Union of India & Ors in O.A. No. 55/2020 regarding M/s Homeland Exotica-mixed land use construction project at Shimla.

Hon'ble National Green Tribunal dated 12.05.2020 passed the following orders in the above case:-

".....it is patent from the above that the project proponent does not have Environmental Clearance (EC) apart from other violations. There is nothing to show compliance of requirement of Air and Water Acts. In view of this position, the Director, Town and Country Planning, H.P, Commissioner, Municipal Corporation, Shimla, SEIAA, Himachal Pradesh and the State PCB may ensure that the project does not proceed further in violation of law. Action may also be taken for prosecution and assessment and recovery of environmental compensation, following due process of law. Further report in the matter be filed on or before on 31.08.2020 by email at judicial-ngt@gov.in

2. In compliance to the above orders, the concerned officer's from Town and Country Planning Department, Municipal Corporation, Shimla, Member Secretary, HP State Pollution Control Board and Himachal Pradesh State Level Environment Impact Assessment Authority initiated the action against the project proponent to ensure that project proponent does not violate the norms/law.

The department wise report is as under:

Town and Country Planning Department:

3. According to the Town & Country Planning Department it has been submitted vide letter no. HIM/TP/Law-VI/RERA (Nirvana Wood & Hotel) 1306-08 dated 11.06.2020 the Commissioner, Municipal Corporation, Shimla has been directed to take necessary action as project falls within the jurisdiction of Municipal Corporation Shimla and as such action in the matter is required to be taken by M.C., Shimla. The letter is attached as **Annexure-A**.

Municipal Corporation, Shimla, Himachal Pradesh:

4. The Architect Planner, Municipal Corporation, Shimla submitted that the site the team of officers from his office visited the premises of M/s Nirvana Woods & Hotel Pvt. Ltd. on dated 05.07.2020 & 29.07.2020 to check the status of construction work at site, but during the visit no representative of M/s Nirvana Woods & Hotel Pvt. Ltd. was available at site except security guards who expressed his inability to explain anything about the site. Thereafter the site was again visited by the undersigned along with three Junior Engineers and field staff of Architect Planner branch of Municipal Corporation, Shimla on dated 28.08.2020. During the visit authorized signatory/representative of company of M/s Nirvana Woods & Hotel Pvt. Ltd. were present. The team observed that:-

1. During the visit the construction work at site was found suspended.
2. The team took all the measurements of existing building's blocks for comparison to ascertain the deviations from the proposed sanctioned plan by the Town and Country Planning Department.

As informed the comprehensive report of all the measurements will be submitted in four weeks time. The latest status is that the work is closed at site.

5. The letter vide no. MCS/AP/2020-2358 dated 28.08.2020 from the Architect Planner, Municipal Corporation, Shimla is annexed as **Annexure-B**.

HP State Pollution Control Board, Shimla:

6. The HP State Pollution Control Board, issued orders of disconnection of the power supply of M/s Nirvana Woods & Hotels Pvt. Ltd. Village Kiyari & Rirka, Tehsil and District Shimla, H.P. under section 33-A of Water (Prevention & Control of Pollution) Act, 1974 and section 31-A of Air (Prevention & Control of Pollution) Act, 1981 vide HP SPCB Shimla office order no. 6572-76 on dated 13.05.2020.

7. An, Environmental Compensation amounting to Rs. 18,00,000/- only (Eighteen Lacs only) has been imposed upon the unit vide letter no. PCB/Ro Shimla/OA No. 55/2020 (titled as Dr. Pawan Kumar Banta Vs. UIO)-974-75 dated 27.06.2020 for not complying with the directions issued by State Board as per methodology given by Hon'ble National Green Tribunal in O.A. No. 593/2017, titled "Paryavaran Suraksha Samiti & Anr. Vs. Uol & Ors. orders dated 19.02.2019. The detailed report of Sh. Lalit Thakur, Asstt. Env. Engineer, HP PCB is annexed as **Annexure-C**.

8. Further, the Member Secretary, H.P. State Pollution Control Board vide their office letter no. PCB-OA No. 55/20-12926 dated 18.08.2020 informed that the Unit, M/s Nirvana Woods & Hotels Pvt. has challenged the said order of HP SPCB 15.07.2020 imposing the Environmental Compensation to the tune of Rs. 18,00,000/- in the Hon'ble High Court vide CWP No. 2428/2020, titled Nirvana Woods & Hotels Pvt. Ltd. vs. HP. The Hon'ble High Court vide its order dated 17.07.2020, has stayed the operation of said order. Now, aforesaid order of dated 17.07.2020 is subjudice before Hon'ble High Court. The report of Member Secretary, Pollution Control Board is at **Annexure-D**.

Himachal Pradesh State Level Environment Impact Assessment Authority:

9. The Member Secretary, HP SEIAA issued notice to Sh. Pankaj Gupta, M/s Homeland Exotica-mixed land use construction project, now working in name of M/s Nirvana Woods & Hotels (P) Ltd., Village-Kiyari & Rirka, Tehsil & District-Shimla, H.P vide their office order vide letter no. F. No. HP SEIAA/2015-360-loose -367-371 dated 23.05.2020 and has directed that the non compliance by the project proponent to the terms and conditions of Environment Clearance granted as per the provisions contained in the Environment Impact Assessment Notification, 2006 under Section-5 of Environment (Protection) Act, 1986 & the orders of Hon'ble National Green Tribunal dated 12.05.2020, the project proponent has been directed to immediately stop the construction activities at project site till further orders or till the construction activities are permitted by Court of Law. The Office order by Member Secretary, HP SEIAA is attached as **Annexure E**.

10. In order to ascertain the compliance to the orders of Hon'ble National Green Tribunal dated 12.05.2020 and subsequent directions issued from this office vide no. HPSEIAA/2015-360-loose-367-371 dated 23.05.2020 a team of officers visited the premises of M/s Nirvana Woods & Hotel Pvt. Ltd. on dated 28.09.2020. The team inspected the entire campus, premises of the project. The team was accompanied by a security guard of the project and the Architect Mr. Kaundal of project proponent during the visit. The team observed that construction work was suspended and there was no activity in the premises by the project proponent. The site visit report is attached as **Annexure F**.

11. The report is submitted for perusal of Hon'ble National Green Tribunal.

[Handwritten signature]
29/8/20

(D.C. Rana)

Member Secretary,

HP State Environment Impact Assessment Authority,

Shimla, 171001.

Encl: As above.

TOWN AND COUNTRY PLANNING DEPARTMENT
HIMACHAL PRADESH

No. HIM/TP/Law-VI/RERA (Nirvana Wood & Hotel)-1306-04 Dated: 11-6-20

Ann-A 2G

To,

The Commissioner
Municipal Corporation
Shimla.

122098

17/6/20

1
Subject:- O.A No. 55/2020-Dr. Pawan Kumar Banta Versus Union of
India & Ors.

~~Section Officer~~

Sir.

~~Sd/-~~

~~PSO (Encl)~~

With reference to the subject cited above it is submitted that the above mentioned matter was listed before the Principal Bench of Hon'ble National Green Tribunal at New Delhi on 01.04.2020. Copy of order dated 01.04.2020 is enclosed herewith. In this regard it is submitted that the area in question falls within your jurisdiction and as such action in the matter is required to be taken at your end.

It is therefore requested you to comply the order of the Hon'ble National Green Tribunal order dated 01.04.2020 in letter and spirit please.

Yours faithfully

~~Encl~~
15/6/20
ha
m/s

Encl:- As above.

State Town Planner
Town & Country Planning Deptt.,
Himachal Pradesh, Shimla-9.
Phone No.0177-2625752.

Copy forwarded for favour of information to:-

1. Member Secretary, State Level Environment Impact Assessment Authority, Himachal Pradesh, Ministry of Environment, Forest & Climate Change, Government of India, at Department of Environment Science & Technology, Paryavaran Bhawan, Near US Club Shimla-1.
2. Member Secretary, H.P. State Pollution Control Board, Him Parivesh, Phase-III, New Shimla-171009.

~~Signature~~
State Town Planner
Town & Country Planning Deptt.,
Himachal Pradesh, Shimla-9.
Phone No.0177-2625752.

MUNICIPAL CORPORATION SHIMLA

Ann - B

No. MCS/AP/2020-2358

Dated 28-08-2020

From

Architect Planner,
Municipal Corporation,
Shimla.

To

✓ **The Director-cum-Member Secretary,**
HP State Environment Impact Assessment Authority,
Shimla-171101

Sub:-

Orders of Hon'ble National Green Tribunal in the matter of Dr. Pawan Kumar Banta vs. Union of India & Ors in O.A. No. 55/2020 regarding M/s Homeland Exotica-mixed land use construction project at Shimla.

Sir,

Please refer to the subject cited above and refer to the directions dated 12.05.2020 of Hon'ble National Green Tribunal. In this regard, it is to inform you that the team of officers from this office visited the premises of M/s Nirvana Woods & Hotel Pvt. Ltd. on dated 05.07.2020 & 29.07.2020 to check the status of construction work at site, but during the visit no representative of M/s Nirvana Woods & Hotel Pvt. Ltd. was available at site except security guards who expressed his inability to explain anything about the site.

*Accl. Director
PSD (Env.)*

Thereafter the site was again visited by the undersigned along with three Junior Engineers and field staff of Architect Planner branch of Municipal Corporation, Shimla on dated 28.08.2020. During the visit authorized signatory/representative of company of M/s Nirvana Woods & Hotel Pvt. Ltd. were present. The team observed that:-

EMSO

29/8/20

1. During the visit the construction work at site was found suspended.
2. The team took all the measurements of existing building's blocks for comparison to ascertain the deviations from the proposed sanctioned plan by the Town and Country Planning Department.

*pe man on file
with report*

The comprehensive report of all the measurements will be submitted in four weeks time. The latest status is that the work is closed at site.

Yours faithfully,

[Signature]
2
Architect Planner,
M.C. Shimla

Endst. No _____

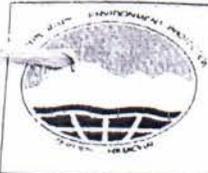
Dated _____

Copy to:-

The Commissioner, Municipal Corporation, Shimla for information please.

[Signature]
Architect Planner,
M.C. Shimla

Ann - C



**H.P. STATE POLLUTION CONTROL BOARD,
REGIONAL OFFICE, "HIM PARIVESH",
PHASE - III, NEW SHIMLA - 171009**

www.hppcb.nic.in

Phone No. - 0177-2673274

No. PCB/ROS/ O.A. NO. 55/2020 976-77 Dated- 27-06-2020

To

The Director-cum-Member Secretary,
State Level Environment Impact Assessment Authority,
Himachal Pradesh, Shimla 171001

130879
877/20

Subject: - Orders of Hon'ble National Green Tribunal dated 12.05.2020 in OA No. 55/2020 titled as Dr. Pawan Kumar Banta Vs. Union of India & Ors.

circulator (en-57)

Sir,

Recd. circulator

This is with reference to DEST office letter no. S&T/HP SEIAA/ 2015-360-619 dated 18.06.2020 and HPSPCB HO letter No. PCB-OA No. 55/2020-10677 dated 24.06.2020. In this context, it is submitted that HPSPCB has already issued orders to disconnect the power supply of M/s Nirvana Woods & Hotels Pvt. Ltd. Village Kiyari & Rirka, Tehsil and District Shimla, H.P. under section 33-A of Water (Prevention & Control of Pollution) Act, 1974 and section 31-A of Air (Prevention & Control of Pollution) Act, 1981 vide HPSPCB Shimla office order no. 6572-76 dated 13.05.2020 (Copy enclosed).

PSD (en)

Further, Environmental Compensation amounting to Rs. 18,00,000/- only (Eighteen Lacs only) has been imposed upon the unit for not complying with the directions issued by State Board as per methodology given by Hon'ble National Green Tribunal in O.A. No. 893/2017, titled "Paryavaran Suraksha Samiti & Anr. Vs. UoI & Ors. orders dated 19.02.2019 (Copy enclosed).

This is submitted for kind information and further necessary action please.

Yours faithfully,

**Asstt. Environmental Engineer,
HP SPCB, Shimla**

Copy to:

- The Member Secretary, HPSPCB Phase-III, New Shimla in compliance to HPSPCB Shimla letter no. 10677 dated 24.06.2020.

**Asstt. Environmental Engineer,
HP SPCB, Shimla**

4/7/20
772



HIMACHAL PRADESH STATE ELECTRICITY BOARD

PERMANENT DISCONNECTION ORDER

PDCO NO : PDCO/100007012067/20200522
APPLICATION NO :
PDCO/100007012067/20200522

DATE : 22-05-2020

JUNIOR ENGINEER /A.A.E()

Please disconnect the below consumer permanently from Board's circuit and report below.

S.D.O.

-----CONSUMER DETAILS-----

NAME :NIRWANA HOTEL PVT LTD
FATHER'S NAME :
ADDRESS :VILLAGE KI,SHIMLA,,,AD NO
541738917503,171009
CATEGORY :1TMS
PHONE NUMBER :9464730961
APPLICATION REASON :
~~PAYMENT DEFAULTER~~

ACCOUNT NO :100007012067
LEG NO :1112127141
JE AREA: KHALINI
SAN LOAD :7.2400000
OUTSTANDING AMOUNT :0.00

As per statutory order issued by worthy Member Secretary - HP. Pollution Control Board No- 2019/6572-76 dated 13.05.2020.

-----REPORT-----

- (1)Service(Over head/underground) disconnected
- (2)Fuses drawn and meter(s) returned to stores

Item	Meter Details	
Meter no	2644355	
Meter Status	10-60 A	
Phase / Make	3φ	HE
Reading - KWH / KVAH	25912 KWH	
MDI / MF	1600 IMP/KWH	
Body seal position /		
Terminal seal		
Entered in movement		

Done by/date and time
Reason for disconnection

JE Name: AKH BARDWAJ
22/5

Date

(Customer Signature)

[Signature]
22/5/20

=====

CHARGE

No charge will be made against a consumer on account of disconnection, but in view of item 5 of the schedule of general charges, the reason for disconnection should be stated below under either of the following head

- (a) A breach by the consumer of three conditions of supply or of his agreement (if any) with the board of such provision of the Act as may be relevant.
- (b) Vacation of premises when the period of vacation is less than 30 days.
- (c) Other than (a) or (b).

If the reason should fall under either (a) or (b), a reference to the above Disconnection order be made in the remark column of the above Consumer's Ledger.



H.P. STATE POLLUTION CONTROL BOARD
HIM PARIVESH, PHASE-III
NEW SHIMLA-171009

106

OFFICE ORDER

Whereas direction under Section 33-A of the Water (Prevention & Control of Pollution) Act, 1974 and 31-A of the Air (Prevention & Control of Pollution) Act, 1981 vide this office order No.24540-43 dated 16.11.2019 was issued to the Executive Engineer, Electrical Division, HPSEB, Electrical Div. Kasumpti, Distt. Shimla, HP for disconnection of power supplies of M/s. Nirvana Woods & Hotels Pvt. Ltd. Village Kiyari & Rirka, Tehsil & Distt. Shimla, HP for not obtaining renewal of consent to operate and not submitting Environmental Clearance and the same subsequently was kept in abeyance vide this office letter No.26318-21 dated 5.12.2019 till 3.1.2020 and unit was granted two months time for necessary compliance.

Whereas the Assistant Environmental Engineer, Regional Office, Shimla vide letter No.2434 dated 22.2.2020 has again reported that unit has not made the compliance, although the unit had applied for renewal of consent to establish but it has not submitted Environmental Clearance and again recommended for the power disconnection of the unit. The letter No.1202-05 dated 10.2.2020 has also been received from the Assistant Executive, HPSEBL Khalini, Shimla-2 for the further directions in view of the representation received from the project proponent.

In consideration of the facts stated above H.P. State Pollution Control Board in exercise of power conferred under section 33-A of Water (Prevention & Control of Pollution) Act, 1974 and Section 31-A of Air(Prevention and Control of Pollution) Act, 1981, the H.P. State Electricity Board in general and the Executive Engineer, Electrical Division, Kasumpti, Shimla, Distt. Shimla, HP in particular are, hereby directed to disconnect the power supply to the unit M/s. Nirvana Woods & Hotels Pvt. Ltd. Village Kiyari & Rirka, Tehsil & Distt. Shimla, HP forthwith.

Direction is also issued to M/s. Nirvana Woods & Hotels Pvt. Ltd. Village Kiyari & Rirka, Tehsil & Distt. Shimla, HP, not to use DG set.

Non-compliance of these directions shall constitute a cognizable offence for following action:-

Fine and imprisonment up to six years as provided under section 41,43 & 44 of the Water (Prevention and Control of Pollution) Act, 1974 and under section 37,38 & 39 of the Air (Prevention and Control of Pollution) Act, 1981. Strict compliance from all concerned is solicited to avoid legal liability on their part.

(Aditya Negi, IAS)
Member Secretary

6572-76

H.P.State Pollution Control Board

No. PCB/246/Sunil Kumar Sood Construction Project(Nirvana Woods)/2019-

Dated: 13.05.2020

Copy forwarded to the following for information and immediate necessary action:

1. The Chairman, H.P. State Electricity Board, Vidyut Bhawan, Shimla.
2. The Executive Engineer, Electrical Division, HPSEB, Electrical Div. No.1, Kasumpti Shimla, Distt. Shimla, HP.
3. The Assistant Executive Engineer, Electrical Division, HPSEB, Electrical Div. Khalini Shimla, Distt. Shimla, HP.
4. The Assistant Environmental Engineer, HPSPCB, Shimla to give compliance report immediately
5. M/s. Nirvana Woods & Hotels Pvt. Ltd. Village Kiyari & Rirka, Tehsil & Distt. Shimla, HP.
6. Case file

(Aditya Negi, IAS)
Member Secretary

H.P.State Pollution Control Board



H.P. STATE POLLUTION CONTROL BOARD,
"HIM PARIVESH", PHASE - III, NEW SHIMLA - 171009
Phone No. - 0177-2673274

No. PCB/RO Shimla/OA No. 55/2020 (titled Dr. Pawan Kumar Banta) vs. UOI-974-75 Dated: 27/06/2020

To

M/s Nirvana Woods & Hotels Pvt. Ltd.,
(Earlier M/s Sunil Kumar Sood),
Village Kiyari & Rirka, Tehsil & District Shimla, H.P.

Sub: - O.A. No. 55/2020 titled as Dr. Pawan Kumar Banta vs. Union of India & Ors. pending before the Hon'ble NGT.

This is in reference to orders passed by Hon'ble National Green Tribunal in O.A. No. 593/2017 titled Paryavaran Suraksha Samiti & Anr. V/s Union of India & Ors dated 19.02.2019 vide which formula for levying the Environmental Compensation has been given for non-compliance of environmental standards/violation of directions.

Further Hon'ble National Green Tribunal in O.A. 55/2020 dated 12.05.2020 have passed following directions:

"3. It is patent from the above that the project proponent does not have Environmental Clearance (EC) apart from other violations. There is nothing to show compliance of requirement of Air and Water Acts. In view of this position, the Director, Town and Country Planning, H.P. Commissioner, Municipal Corporation, Shimla, SEIAA, Himachal Pradesh and the State PCB may ensure that the project does not proceed further in violation of law. Action may also be taken for prosecution and assessment and recovery of environmental compensation, following due process of law. Further report in the matter be filed on or before on 31.08.2020 by email at judicial-ngt@gov.in."

Whereas construction activities were carried out by your unit without possessing the Environmental Clearance & Mandatory consent of the State Board despite issuing direction by the State Board. Therefore, in view of the order of Hon'ble National Green Tribunal and directions received from HPSPCB Head Office letter No. 10857 dated 27.06.2020 and Environmental Compensation amounting to Rs. 18,00,000/- (Rupees Eighteen Lacs only) is hereby imposed upon you based upon methodology prepared by Hon'ble NGT in O.A. No. 593/2017 titled Paryavaran Suraksha Samiti & Anr. V/s Union of India & Ors dated 19.02.2019 for not complying with the directions issued by State Pollution Control Board. Environmental Compensation may be deposited through RTGS/NEFT in A/c No. 54140100001617, IFSC Code BARB0NEWSIM, Bank of Baroda, BCS New Shimla.

Er. Lalit Kumar,
Asstt. Environmental Engineer,
HP State Pollution Control Board, Shimla

Copy to:-

The Member Secretary, H.P. State Pollution Control Board, Phase-III, New Shimla, H.P. 171009 w.r.t. your office letter No. PCB-OA No. 55/2020-10857 dated 27.06.2020 for information please.

Er. Lalit Kumar,
Asstt. Environmental Engineer,
HP State Pollution Control Board, Shimla



HIMACHAL PRADESH STATE ELECTRICITY BOARD LIMITED

(A State Govt. undertaking)

Registered office:

Number (CIN) U40109H.P2009SGCO31255GST No. VidytBhawan, HPSEBL, Shimla-171004(H.P.)

Telephone Number

0177-2624123, ESD KHALINI, SHIMLA

HPSEBL 02 AACCH4894EHZB

Website Address

www.hpseb.com

Email: aekhallini@gmail.com

HPSEBL/SES/C-10/2020-21- 135-36

Date:- 02/06/2020

To

✓ Regional Officer,
HPSPCB, Him Parivesh,
Phase-III, Sector-5,
New Shimla-171009

Subject: Disconnection of electric supply as per Instruction No.36 of Sales Manual Instructions-HPSEBL- Consumer Id: 10007012067.

Reference: Your office letter no. PCB-RO (S)OA No. 55/20202-455-45 Dated 22.05.2020.
Sir,

This office in continuation to this office letter No. HPSEBL/SES/C-10/2019-20-80-84 Dated 20.05.2020 and even file No. 87-92 dated 23.05.2020, wherein compliance to the office order issued by worthy Member Secretary, HP Pollution Control Board, to disconnect the supply to the unit of M/s Nirwana Woods & Hotels Pvt. Ltd., Village Kyari-Rirka, Tehsil Shimla under sections 41,43 & 44 of the Water (Prevention and Control) Act, 1974 and under section 37,38 & 39 of the Air (Prevention and Control of Pollution) Act, 1981 were carried out vide Permanent Disconnection Order No.PDCO/10007012067/20200522 Dated 22.05.2020.

In this context, it is further added that as per the procedure/directions prescribed in Sales-Manual of HPSEBL- a fee of Rs. 250/- was needed to be deposited for issuance of PDCO. The said requisite fee for disconnection charges has been provided by Dr. Pawan Kumar Banta, New Shimla in cash on 22.05.2020 which may be settled with at your level. Accordingly, the Permanent Disconnection Connection Order PDCO was issued on 22.05.2020 and affected on 23.05.2020 (copy enclosed). The readings on the energy meter and the DG set have been taken as on dated 23.05.2020 and the project incharge of M/s Nirwana Woods instructed/under surveillance not to use Diesel Generator Set till further orders from the HP Pollution Control Board.

Thanking you,

Yours Faithfully,

(Er. Rohit Kashyap)
Assistant Executive Engineer,
ESD HPSEBL Khalini, Shimla-2

Copy to the following for information and necessary action:

The worthy Member Secretary, HP State Pollution Control Board, Him Parivesh, Phase-III, Sector-5, New Shimla-9.

Assistant Executive Engineer,
ESD HPSEBL Khalini, Shimla-2

HP State Pollution Control Board,

Below BCS, Phase-III, New Shimla

Ann-D

No. PCB-OA No. 55/2020

12926

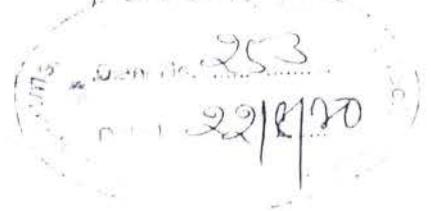
Dated:

18-8-2020

From: The Member Secretary

To

The Member Secretary
SEIAA (Nodal Officer), Shimla, H.P.



Subject: OA No. 55/2020, titled as **Dr. Pawan Kumar Banta v. Union of India & Ors.** pending before the Hon'ble NGT (Compliance of order dated 12-05-020)..... Report thereof.

Sir,

Please refer to the Hon'ble NGT order dated 02-03-2020, wherein SEIAA (HP) is designated as Nodal Agency as well as order dated 12.05.2020 in the aforecited matter related to unauthorized, illegal development/construction of M/s Nirvana Woods at Up Mohal Kiari Rirka, Tehsil Shimla (R).

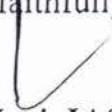
The Hon'ble NGT observed that the project proponent does not have Environmental Clearance (EC) apart from other violations. In view of this position, the Director, Town and Country Planning, H.P, Commissioner, Municipal Corporation, Shimla, SEIAA, Himachal Pradesh and the State PCB were directed to ensure that the project does not proceed further in violation of law and also take action for prosecution / levy of environmental compensation, following due process of law. It was also directed that further report in the matter be filed on or before on 31.08.2020 by email.

In compliance to order dated 12-05-2020 qua the HPSPCB, it is submitted that the Regional Officer, HPSPCB, Shimla in whose area of jurisdiction the concerned unit falls, was asked vide letter dated 16-05-2020 to assess Environmental Compensation to be imposed upon said project proponent and submit the Action Taken/Compliance report in terms & compliance of the aforecited Hon'ble NGT order to Nodal Agency. To ensure that the project proponent does not proceed further (as directed by the Hon'ble NGT), the power disconnection orders of the unit were also issued on 13-05-2020 to the HPSEBL (**Annexure-1**). The concerned HPSEBL authorities vide letter dated 02-06-2020 have submitted compliance indicating disconnection of power (**Annexure-2**). Further, the Regional Officer, HPSPCB, Shimla had requested the Commissioner, MC Shimla, vide letter dated 19-05-2020 (**Annexure-3**) to take action on illegal/ unauthorised construction and initiate proceedings in accordance with MC Act, 1994 and to give details of deviation in building plan to assess Environment Compensation. The Regional office, HPSPCB, Shimla has also imposed Environmental Compensation amounting to Rs. 18 Lakh upon project proponent vide communication dated 27-06-2020 (**Annexure-4**), in accordance with the methodology/criteria laid down by the Hon'ble NGT vide order dated 19.02.2020 in O.A. No. 593/2017, titled 'Paryavaran Suraksha Samiti & Anr. v. Union of India & Ors. The Regional Officer, HPSPCB, Shimla has also submitted the action taken/compliance report vide dated

27.06.2020 to the Director-cum-Member Secretary, State Level Environmental Impact Assessment Authority on 27.06.2020 which is annexed as (**Annexure-5**). It is worthwhile to mention here that the Unit, M/s Nirvana Woods & Hotels Pvt. has challenged the said order of HPSPCB imposing the Environmental Compensation to the tune of Rs. 18,00,000/- in the Hon'ble High Court vide CWP No. 2428/2020, titled Nirvana Woods & Hotels Pvt. Ltd. v. H.P. The Hon'ble High Court vide its order dated 17.07.2020, (**Annexure-6**) has stayed the operation of said order. Therefore, the State Board is contesting the said case in the Hon'ble High Court.

(Encl: As above)

Yours faithfully,


(Aditya Negi, IAS)
Member Secretary
HPSPCB, Shimla

✓



H.P. STATE POLLUTION CONTROL BOARD
HIM PARIVESH, PHASE-III
NEW SHIMLA-171009

Annexure - 2
186

OFFICE ORDER

Whereas direction under Section 33-A of the Water (Prevention & Control of Pollution) Act, 1974 and 31-A of the Air (Prevention & Control of Pollution) Act, 1981 vide this office order No.24540-43 dated 16.11.2019 was issued to the Executive Engineer, Electrical Division, HPSEB, Electrical Div. Kasumpti, Distt. Shimla, HP for disconnection of power supplies of M/s. Nirvana Woods & Hotels Pvt. Ltd. Village Kiyari & Rirka, Tehsil & Distt. Shimla, HP for not obtaining renewal of consent to operate and not submitting Environmental Clearance and the same subsequently was kept in abeyance vide this office letter No.26318-21 dated 5.12.2019 till 3.1.2020 and unit was granted two months time for necessary compliance.

Whereas the Assistant Environmental Engineer, Regional Office, Shimla vide letter No.2434 dated 22.2.2020 has again reported that unit has not made the compliance, although the unit had applied for renewal of consent to establish but it has not submitted Environmental Clearance and again recommended for the power disconnection of the unit. The letter No.1202-05 dated 10.2.2020 has also been received from the Assistant Executive, HPSEBL Khalini, Shimla-2 for the further directions in view of the representation received from the project proponent.

In consideration of the facts stated above H.P. State Pollution Control Board in exercise of power conferred under section 33-A of Water (Prevention & Control of Pollution) Act, 1974 and Section 31-A of Air(Prevention and Control of Pollution) Act, 1981, the H.P. State Electricity Board in general and the Executive Engineer, Electrical Division, Kasumpti, Shimla, Distt. Shimla, HP in particular are, hereby directed to disconnect the power supply to the unit M/s. Nirvana Woods & Hotels Pvt. Ltd. Village Kiyari & Rirka, Tehsil & Distt. Shimla, HP forthwith.

Direction is also issued to M/s. Nirvana Woods & Hotels Pvt. Ltd. Village Kiyari & Rirka, Tehsil & Distt. Shimla, HP, not to use DG set.

Non-compliance of these directions shall constitute a cognizable offence for following action:-

Fine and imprisonment up to six years as provided under section 41,43 & 44 of the Water (Prevention and Control of Pollution) Act, 1974 and under section 37,38 & 39 of the Air (Prevention and Control of Pollution) Act, 1981. Strict compliance from all concerned is solicited to avoid legal liability on their part.

(Aditya Negi, IAS)
Member Secretary

6572-76

H.P.State Pollution Control Board

No. PCB/246/Sunil Kumar Sood Construction Project(Nirvana Woods)/2019- Dated: 13.05.2022
Copy forwarded to the following for information and immediate necessary action:

1. The Chairman, H.P. State Electricity Board, Vidyut Bhawan, Shimla.
2. The Executive Engineer, Electrical Division, HPSEB, Electrical Div. No.1, Kasumpti Shimla, Distt. Shimla, HP.
3. The Assistant Executive Engineer, Electrical Division, HPSEB, Electrical Div. Khalini Shimla, Distt. Shimla, HP.
4. The Assistant Environmental Engineer, HPSPCB, Shimla to give compliance report immediately
5. M/s. Nirvana Woods & Hotels Pvt. Ltd. Village Kiyari & Rirka, Tehsil & Distt. Shimla, HP.
6. Case file

(Aditya Negi, IAS)
Member Secretary

H.P.State Pollution Control Board



HIMACHAL PRADESH STATE ELECTRICITY BOARD LIMITED

Annexure - 2

384

Registered office:

Number (CIN) U40109H.P2009SGCO31255GST No. VidyutBhawan, HPSEBL, Shimla-171004(H.P.)

Telephone Number

0177-2624123, ESD KHALINI, SHIMLA

HPSEBL 02 AACCH4894EHZB

Website Address

www.hpseb.com Email: aeekhallini@jmail.com

HPSEBL/SES/C-10/2020-21-

135-36

To

Date:- 02/06/2020

✓ Regional Officer,
HPSPCB, Him Parivesh,
Phase-III, Sector-5,
New Shimla-171009

Subject: Disconnection of electric supply as per Instruction No.36 of Sales Manual Instructions-HPSEBL- Consumer Id: 100007012067.

Reference: Your office letter no. PCB-RO (S)OA No. 55/20202-455-45 Dated 22.05.2020.
Sir,

This office in continuation to this office letter No. HPSEBL/SES/C-10/2019-20-80-84 Dated 20.05.2020 and even file No. 87-92 dated 23.05.2020, wherein compliance to the office order issued by worthy Member Secretary, HP Pollution Control Board, to disconnect the supply to the unit of M/s Nirwana Woods & Hotels Pvt. Ltd., Village Kyari-Rirka, Tehsil Shimla under sections 41,43 & 44 of the Water (Prevention and Control) Act, 1974 and under section 37,38 & 39 of the Air (Prevention and Control of Pollution) Act, 1981 were carried out vide Permanent Disconnection Order No.PDCO/100007012067/20200522 Dated 22.05.2020.

In this context, it is further added that as per the procedure/directions prescribed in Sales-Manual of HPSEBL- a fee of Rs. 250/- was needed to be deposited for issuance of PDCO. The said requisite fee for disconnection charges has been provided by Dr. Pawan Kumar Banta, New Shimla in cash on 22.05.2020 which may be settled with at your level. Accordingly, the Permanent Disconnection Connection Order PDCO was issued on 22.05.2020 and affected on 23.05.2020 (copy enclosed). The readings on the energy meter and the DG set have been taken as on dated 23.05.2020 and the project incharge of M/s Nirwana Woods instructed/under surveillance not to use Diesel Generator Set till further orders from the HP Pollution Control Board.

Thanking you,

Yours Faithfully,

(Er. Rohit Kashyap)
Assistant Executive Engineer,
ESD HPSEBL Khalini, Shimla-2

Copy to the following for information and necessary action:

The worthy Member Secretary, HP State Pollution Control Board, Him Parivesh, Phase-III, Sector-5, New Shimla-9.

Assistant Executive Engineer,
ESD HPSEBL Khalini, Shimla-2



H.P. STATE POLLUTION CONTROL BOARD,
"REGIONAL OFFICE"
"HIM PARIVESH", PHASE - III, NEW SHIMLA - 171009
Phone No. - 0177-2673274

No. PCB-RO(S)OA No. 55/2020-
To

26264

Dated: 19/05/2020

The Commissioner,
Municipal Corporation, Shimla, H.P.

Subject: OA No. 55/2020, titled as Dr. Pawan Kumar Banta v. Union of India &
Ors. pending before the Hon'ble NGT.

Sir,

As you are aware of afore-cited case relating to M/s Nirvana Woods & Hotels Pvt. Ltd. Kiari/Rirka, Tehsil Shimla (R) District Shimla H.P. is pending before the Hon'ble NGT (falling within the municipal limits of Shimla). In this connection, it is to inform you that, this case was listed on 12.05.2020 and following directions were passed:-

"3. It is patent from the above that the project proponent does not have Environmental Clearance (EC) apart from other violations. There is nothing to show compliance of requirement of Air and Water Acts. In view of this position, the Director, Town and Country Planning, H.P., Commissioner, Municipal Corporation, Shimla, SEIAA, Himachal Pradesh and the State PCB may ensure that the project does not proceed further in violation of law. Action may also be taken for prosecution and assessment and recovery of environmental compensation, following due process of law. Further report in the matter be filed on or before on 31.08.2020 by email at judicial-ngt@gov.in."

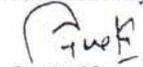
The main issue involves illegal/unauthorised construction, so necessary action in compliance of the afore-cited Hon'ble NGT order dated 12.05.2020 may kindly be taken to prosecute the project proponent in accordance with the provisions of M.C. Act, 1994.

It is further requested that to assess the Environment Compensation for deviation in the building plan, some responsible officer of the Corporation may kindly be deputed along with records to assist this office within 7 days positively.

SEIAA is the Nodal Agency in this matter vide Hon'ble NGT previous order dated 02.03.2020, Action Taken/Compliance Report pertaining to your department, thereafter may also be submitted to the Nodal Agency, so that compliance is reported to Hon'ble NGT well in time i.e. before 31.08.2020.

(Encl: As above.)

Yours Faithfully,


(Er. Lalit Kumar),
Regional Officer,
HP SPCB, Shimla.

Copy forwarded to:

1. The Director/Member Secretary, SEIAA, Deptt. of Env. Sci. & Technology, GoHP, Shimla, H.P. for kind information & further necessary action please.
2. The Director, Town & Country Planning Shimla, H.P. for information and further necessary action.


(Er. Lalit Kumar),
Regional Officer,
HP SPCB, Shimla.



Annexure 4 -

H.P. STATE POLLUTION CONTROL BOARD,
"HIM PARIVESH", PHASE - III, NEW SHIMLA - 171009
Phone No. - 0177-2673274

No. PCB/RO Shimla/OA No. 55/2020 (titled Dr. Pawan Kumar Banta) vs. UOI-97475 Dated: 27-06-2020

To

M/s Nirvana Woods & Hotels Pvt. Ltd.,
(Earlier M/s Sunil Kumar Sood),
Village Kiyari & Rirka, Tehsil & District Shimla, H.P.

2301
29-6-20

Sub: - O.A. No. 55/2020 titled as Dr. Pawan Kumar Banta vs. Union of India & Ors. pending before the Hon'ble NGT.

This is in reference to orders passed by Hon'ble National Green Tribunal in O.A. No. 593/2017 titled Paryavaran Suraksha Samiti & Anr. V/s Union of India & Ors dated 19.02.2019 vide which formula for levying the Environmental Compensation has been given for non-compliance of environmental standards/violation of directions.

Further Hon'ble National Green Tribunal in O.A. 55/2020 dated 12.05.2020 have passed following directions:

"3. It is patent from the above that the project proponent does not have Environmental Clearance (EC) apart from other violations. There is nothing to show compliance of requirement of Air and Water Acts. In view of this position, the Director, Town and Country Planning, H.P. Commissioner, Municipal Corporation, Shimla, SEIAA, Himachal Pradesh and the State PCB may ensure that the project does not proceed further in violation of law. Action may also be taken for prosecution and assessment and recovery of environmental compensation, following due process of law. Further report in the matter be filed on or before on 31.08.2020 by email at judicial-ngt@gov.in."

Whereas construction activities were carried out by your unit without possessing the Environmental Clearance & Mandatory consent of the State Board despite issuing direction by the State Board. Therefore, in view of the order of Hon'ble National Green Tribunal and directions received from HPSPCB Head Office letter No. 10857 dated 27.06.2020 and Environmental Compensation amounting to Rs. 18,00,000/- (Rupees Eighteen Lacs only) is hereby imposed upon you based upon methodology prepared by Hon'ble NGT in O.A. No. 593/2017 titled Paryavaran Suraksha Samiti & Anr. V/s Union of India & Ors dated 19.02.2019 for not complying with the directions issued by State Pollution Control Board. Environmental Compensation may be deposited through RTGS/NEFT in A/c No. 54140100001617, IFSC Code BARB0NEWSIM, Bank of Baroda, BCS New Shimla.

Copy to:-

The Member Secretary, H.P. State Pollution Control Board, Phase-III, New Shimla, H.P. 171009 w.r.t. your letter No. PCB-OA No. 55/2020-10857 dated 27.06.2020 for information please.

Er. Lalit Kumar,
Asstt. Environmental Engineer,
HP State Pollution Control Board, Shimla

Er. Lalit Kumar,
Asstt. Environmental Engineer,
HP State Pollution Control Board, Shimla



**H.P. STATE POLLUTION CONTROL BOARD,
REGIONAL OFFICE, "HIM PARIVESH",
PHASE - III, NEW SHIMLA - 171009**

www.hppcb.nic.in

Phone No. - 0177-2673274

No. PCB/ROS/

976-77

Dated- 27-06-2020

To

The Director-cum-Member Secretary,
State Level Environment Impact Assessment Authority,
Himachal Pradesh, Shimla 171001

Subject: - Orders of Hon'ble National Green Tribunal dated 12.05.2020 in OA No. 55/2020 titled as Dr. Pawan Kumar Banta Vs. Union of India & Ors.

Sir,

This is with reference to DEST office letter no. S&T/HP SEIAA/ 2015-360-619 dated 18.06.2020 and HPSPCB HO letter No. PCB-OA No. 55/2020-10677 dated 24.06.2020. In this context, it is submitted that HPSPCB has already issued orders to disconnect the power supply of M/s Nirvana Woods & Hotels Pvt. Ltd. Village Kiyari & Rirka, Tehsil and District Shimla, H.P. under section 33-A of Water (Prevention & Control of Pollution) Act, 1974 and section 31-A of Air (Prevention & Control of Pollution) Act, 1981 vide HPSPCB Shimla office order no. 6572-76 dated 13.05.2020 (Copy enclosed).

Further, Environmental Compensation amounting to Rs. 18,00,000/- only (Eighteen Lacs only) has been imposed upon the unit for not complying with the directions issued by State Board as per methodology given by Hon'ble National Green Tribunal in O.A. No. 593/2017, titled "Paryavaran Suraksha Samiti & Anr. Vs. UoI & Ors. orders dated 19.02.2019 (Copy enclosed).

This is submitted for kind information and further necessary action please.

Yours faithfully,

Asstt. Environmental Engineer,
HP SPCB, Shimla

Copy to:

- The Member Secretary, HPSPCB Phase-III, New Shimla in compliance to HPSPCB Shimla letter no. 10677 dated 24.06.2020.


Asstt. Environmental Engineer,
HP SPCB, Shimla

CWP No. 2428 of 2020

17.07.2020

Present: Mr. Bipin C. Negi, Senior Advocate, with Mr. Suneet Goel, Advocate, for the petitioner, through Video Conferencing.

Mr. Maan Singh, Advocate, for the respondents, through Video Conferencing.

CMP No. 6223 of 2020

Allowed and disposed of.

CWP No. 2428 of 2020 & CMP No. 6224 of 2020

Notice. Mr. Maan Singh, Advocate, waives service of notice on behalf of the respondents. He seeks and is granted four weeks' time to file reply. List after four weeks.

Learned counsel for the petitioner to place on record the copy of the order passed by the National Green Tribunal by the next date.

In the meantime, the operation of impugned order, dated 27th June, 2020 (Annexure P-14) shall remain stayed.

(L. Narayana Swamy)
Chief Justice

(Anoop Chitkara)
Judge

July 17, 2020

(rajni)

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aw
High Court of India
Kishwana
woods.



State Level Environment Impact Assessment Authority

Ministry of Environment Forest & Climate Change, Government of India,

at Department of Environment Science & Technology,

Paryavaran Bhawan, Near US Club, Shimla-1, Himachal Pradesh

Ph: 0177-2656559, 2659608 Fax: 2659609

F. No. HP SEIAA/2015-360-loose - 367-371

Dated: 23/5/2020

ORDER

Whereas vide letter no. HP SEIAA/2015/360-M/s Homeland Exotica 143, Sector-7, Panchkula, Haryana-134109-a construction project was granted Environment Clearance vide letter dated 01.04.2016 for mixed land use construction project;

Whereas vide this office letter no. HP SEIAA/2015-360-loose-5413-5414 dated 28.03.2020, a notice was issued to the project proponent for explaining within 15 days as to why the legal action should not be initiated against the unit for non compliance of terms and conditions of Environment Clearance issued in your favour;

Whereas as per this office record the project proponent has failed to comply with directions of this office and has not responded to the directions of this office till date;

Whereas as per the orders of Hon'ble National Green Tribunal passed in the matter of Dr. Pawan Kumar Banta vs. Union of India & Ors in O.A. No. 55/2020 on dated 02.03.2020, the construction site of project proponent was inspected and it was observed that the project proponent has not complied with the stipulated terms & conditions of the Environmental Clearance granted as above and accordingly a report was submitted to Hon'ble National Green Tribunal on dated 01.04.2020;

Whereas the above matter was again listed on 12.05.2020 before Hon'ble National Green Tribunal and Hon'ble National Green Tribunal has passed following orders:-

....."it is patent from the above that the project proponent does not have Environmental Clearance (EC) apart from other violations. There is nothing to show compliance of requirement of Air and Water Acts. In view of this position, the Director, Town and Country Planning, H.P. Commissioner, Municipal Corporation, Shimla, SEIAA, Himachal Pradesh and the State PCB may ensure that the project does not proceed further in violation of law. Action may also be taken for prosecution and assessment and recovery of environmental compensation, following due process of law".....

And whereas apart from above orders non-submission of compliance report to the terms and conditions of environment clearance, non-compliance to the notice of this office tantamount for legal action as per the provisions contained in the Environment Impact Assessment Notification, 2006 under Section-5 of Environment (Protection) Act, 1986 including withdrawal of Environmental Clearance granted in favour of project proponent;

Now therefore, keeping in view the non compliance by the project proponent to the terms and conditions of Environment Clearance & the orders of Hon'ble National Green Tribunal dated 12.05.2020, the project proponent is here by directed to immediately stop the construction activities at project site till further orders or till the construction activities are permitted by Court of Law.

Director-cum-Member Secretary,
HP State Level Environment Impact Assessment Authority,
Himachal Pradesh, Shimla-171001

Sh. Pankaj Gupta,
M/s Homeland Exotica-mixed land use construction project,
Now working in name of M/s Nirvana Woods & Hotels (P) Ltd.,
Village-Kiyari & Rirka, Tehsil & District-Shimla, H.P.
Endst. No.: As above dated the Shimla-1, , 2020

Copy endorsed to:

1. **The Secretary, (Env. S&T)**, to the Govt. of Himachal Pradesh, Shimla-2, for kind information please.
2. **The Member Secretary**, H.P. State Pollution Control Board Him Parivesh, Phase-III, New Shimla, for kind information & necessary action please.
3. **The Director**, Town and Country Planning Department, Himachal Pradesh, Shimla-1711009, for kind information & necessary action please.
4. **The Commissioner**, Municipal Commissioner, Shimla-171001 for kind information & necessary action please.

Director-cum-Member Secretary,
HP State Level Environment Impact Assessment Authority,
Himachal Pradesh, Shimla-171001

Himachal Pradesh State Expert Appraisal Committee

SEIAA, Himachal Pradesh

Ministry of Environment Forest & Climate Change, Government of India,
at Department of Environment Science & Technology,
Paryavaran Bhawan, Near US Club, Shimla-1
Ph: 0177-2656559, 2659608, Fax: 2659609

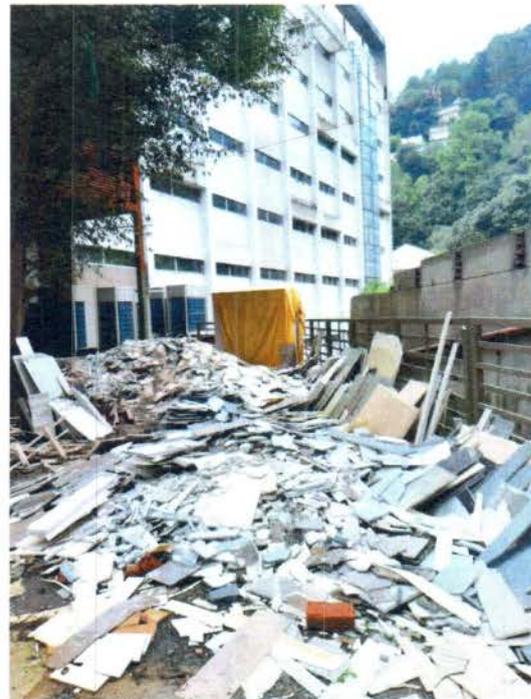
Dated: 28/8/2020

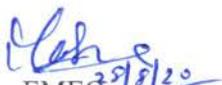
Site Inspection report w.r.t. Orders of Hon'ble National Green Tribunal in the matter of Dr. Pawan Kumar Banta vs. Union of India & Ors in O.A. No. 55/2020 regarding M/s Homeland Exotica-mixed land use construction project at Shimla.

In order to ascertain the compliance to the orders of Hon'ble National Green Tribunal dated 12.05.2020 and subsequent directions issued from this office vide no. HPSEIAA/2015-360-loose-367-371 dated 23.05.2020 a team of following officers visited the premises of M/s Nirvana Woods & Hotel Pvt. Ltd. on dated 28.09.2020:-

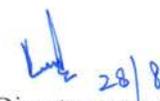
1. Addl. Director-cum-Secretary, SEAC, H.P.
2. Principal Scientific Officer (Env.), DEST
3. Env. Mon. & Eval. Officer, DEST

The team inspected the entire campus, premises of the project. The team was accompanied by a security guard of the project and the Architect Mr. Kaundal of project proponent during the visit. The team observed that construction work was suspended and there was no activity in the premises by the project proponent.




EMO 28/8/20
DEST


PSO (Env.)
DEST


Addl. Director-cum-Secretary, SEAC
DEST