

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

Original Application No. 620/2023

**In the matter of :-**

Prashant Sharma & Others.

....Applicants

Versus

State of Himachal Pradesh & Ors.

...Respondents

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Date: 16.03.2024

Place : Mandi



Respondent No. 3



Through

Divyanshu Kumar Srivastava  
D/1383/2015  
48 Lawyers Chamber Supreme Court  
9711872319  
dksrivastava0511@gmail.com

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
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**In the matter of :-**

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State of Himachal Pradesh & Ors. ...Respondents

**Reply to Original Application No. 620/2023 titled as Prashant  
Sharma & Ors. Vs. State of H.P. & Ors. On behalf of Respondent  
No. 1 & 3.**

May It Please Your Lordships:-

Respectfully Sheweth:-

**Preliminary Submission:-**

1. That the Government of Himachal Pradesh has granted one acre of Government land on lease basis to DAV School Management Committee at Muhal Dadaur Tehsil Balh District Mandi and the Management Committee has constructed the school campus on the said land which is adjoining the Kansha Khad ( local river). The school premises is situated at the left bank of said river.
2. In the year of 2023 during the rainy season, heavy flash flood occurred in Kansha Khad as well as in the other parts of State of Himachal Pradesh which was declared as State Disaster by the Government of Himachal Pradesh. There was great loss of public and private properties. In the said disaster the retaining wall



constructed for the protection of school premises has also been damaged/ washed away.

3. That Sh. Prashant Sharma, Principal DAV School and others have filed an application before Hon'ble National Green Tribunal New Delhi, vide which they have expressed their grievances regarding debris of old bridge and to construct retaining wall to safe guard the school campus.
4. That in pursuance to this Hon'ble National Green Tribunal order dated 02-01-2024, a committee has been constituted under the Chairmanship of Sub-Divisional Officer (C), Balh and other stake holder departments to conduct the Joint Inspection of DAV Public School building Nerchowk campus vide this office order No.MND/DEV/DA-III/O.A. No. 620/2023-2958-64 dated 29-01-2024 by the replying respondent.
5. The committee has visited the spot and submitted the detail report vide letter No SDO(C) Balh/SDK/2024-478 dated 04-03-3024. The copy of same is enclosed as **Annexure R-1**.

### Reply on Merit

1. That the DAV School Ner Chowk ( Dadaur) has constructed school campus at Muhal Dadaur Tehsil Balh District Mandi (HP) on the Government land which has been granted by the State Government on lease basis to the School Management Committee. The campus of school is constructed adjoining the Kansha Khad (local river) by said committee. The HPPWD department has constructed new bridge over Kansha Khad by replacing old bridge and some debris of old bridge which was lying there has also been removed by the PWD department as per report submitted by the

Executive Engineer HPPWD Division Ner Chowk Distt. Mandi vide letter No PW-NCD-WA/Misc/2023-24 -14998-99 dated 04-03-2024. The copy is enclosed as **Annexure R-2**.

2. That as per the report submitted by the committee, during the rainy season in the year of 2023 flash flood occurred in the Kansha Khad as well as in the other area of State of Himachal Pradesh. Due to heavy rain and flash flood in the Kansha river, huge loss of public and private properties was reported. The school campus situates at left bank of Kansha khad downside of Daduar bridge on Ner Chowk Gohar road. On the other bank, there situates Kansha ground. The water way at this point is little narrow and huge soil erosion has occurred at both banks of khad due to heavy flood. As such, due to flash flood some portion of safety wall has also been damaged/washed away.
3. That in pursuance to this Hon'ble Tribunal's order dated 02-01-2024, the joint inspection has been conducted by Committee headed by Sub-Divisional Officer (C), Balh and other stake holder departments. The Principal, DAV School was also called upon the site, he told that flow of water diverted towards school and requested for construction of protection wall along with their boundary line. The Committee has not recommended to construct a retaining wall in the mid of water way as it will obstruct the free flow of water and endanger the bridge and other public properties. However, the debris of damaged old bridge has been removed from the spot by the HPPWD department.
4. That the DAV School Management is running a school on profit basis and charging fees from 500 students. They have also

(4)

constructed school campus worth Rs. 3 Crores. Therefore, the school management must ensure the safety of school building by constructing safety / retaining walls from their own funds.

In view of above submission, facts and circumstances the present application being devoid of merit may kindly be dismissed in the interest of justice and fair play.

Date: 16.03.2024  
Place : Mandi.



Respondent No. 3



Through



Divyanshu Kumar Srivastava  
D/1383/2015  
48 Lawyers Chamber Supreme Court  
9711872319  
dksrivastava0511@gmail.com

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

Original Application No. 620/2023

**In the matter of :-**

Prashant Sharma & Others .

....Applicant

Versus

State of Himachal Pradesh & Ors.

...Respondents

**AFFIDAVIT**

I, Aproov Devgan , S/o late Sh. Bharat Bhusan Age 35 years, having office at Mandi presently posted as Deputy Commissioner, Mandi, H.P, do hereby solemnly affirm and state as under: -

1. That I am arrayed as Respondent no.3 in the captioned matter. I am fully conversant with the facts and circumstances of the case and I have been duly authorized and am, therefore, competent to affirm this affidavit.
2. I state that I have read the contents of the Reply. I state that the facts contained therein are true to the best of my knowledge and belief as derived from the record.
3. I state that the legal argument in the reply is based on the legal advice given to me by my Counsel and factual statements are based on documents/records relied upon.



**DEPONENT**

**VERIFICATION**

I, the Deponent above named, do hereby verify that the contents of paragraph no. 1 to 3 of the above affidavit are true and correct to the best of my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

Verified at Mandi on this 16 day of March 2024.

**DEPONENT**

Serial No. 606/2024  
16  
Mandi  
03 2024  
Mandir Deputi  
Kantor Pengadilan  
Mandi

ANNEXURE R-I

E/1420003 (7)

No. 500 (C) Balh/S.D.K./2024 - 478

11/3/24

From:

The Sub-Divisional Officer (Civil),  
Balh, District Mandi (HP).

To

The Deputy Commissioner,  
Mandi, Distt. Mandi H.P.

Dated, Balh: 1 March, 2024.

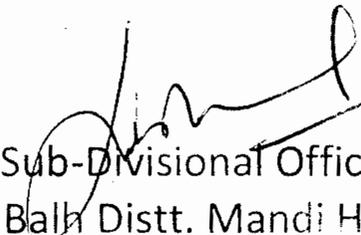
Sub:-

**Regarding joint inspection report of DAV Public School Nerchowk  
Distt Mandi HP. .**

Sir,

Kindly refer to your Office letter no: MND/DEV/DA-III/O.A.No. 620  
/2023-2958-64 dated 29-01-2024 on the subject cited above.

In this context, the joint inspection committee, constituted vide  
your above mentioned office letter no. , visited the spot on dated 15-02-2024. The  
detailed report of committee is enclosed herewith and forwarded for further necessary  
action please.

  
Sub-Divisional Officer (C)  
Balh Distt. Mandi H.P.

4/3/24

## JOINT INSPECTION REPORT

In compliance to Deputy Commissioner Mandi office letter No. MND/DEV/DA-III/OA No. 620/2023-2958-64 dated 29.01.2024, the Committee visited the DAV Public School Building Ner Chowk at Dadaur Tehsil Balh Distt. Mandi HP on 15.02.2024 at 11.00 am to look into the grievances / allegations made by the applicant and to verify the factual position on the site. The following members of the Committee were present at spot:

1. Executive Engineer, JSV Division Baggi
2. Executive Engineer, HPPWD Division Ner Chowk
3. Tehsildar, Balh Distt. Mandi
4. Executive Officer, Municipal Council Ner Chowk
5. Regional Officer, State Pollution Control Board Mandi
6. Mining Officer, Mandi Distt. Mandi HP

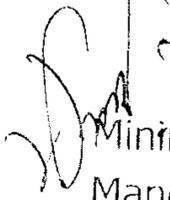
The Brief History of the case is that Sh. Prashant Sharma & others have filed an application dated 26.06.2023 before the Hon'ble National Green Tribunal, New Delhi, vide which they have expressed their grievances regarding debris of old bridge lying in the middle of Kansa Khad Tehsil Balh Distt. Mandi HP and seek direction to Deputy Commissioner Mandi to instruct SDM Balh to construct Retaining Wall to safeguard the school. The Hon'ble NGT has treated and registered the application as O.A. No. 620/2023 titled as Prashant Sharma & others versus State of Himachal Pradesh and others. The first hearing of the case was listed on 02.01.2024. During the hearing, Hon'ble Tribunal has ordered (1) State of Himachal Pradesh, through its Chief Secretary; (2) Irrigation and Public Health Department, through its Secretary; (3) Deputy Commissioner Mandi and (4) HPSPCB, through its Member Secretary to file their reply/response within two months.

In the instant Application, the applicants state that their School building is adjoining to Kansa Khad and there was an old bridge over the river near to the school which was replaced with new one by PWD Department about 9 years back. The application also states that during the rainy season the debris of old bridge diverted the flooded water of the Kansa khad towards the school premises caused soil erosion and endangered the school building, activity stage and ground area. A large portion of their safety wall built during last year was also washed away during this flood.

During visit the Principal, DAV Public School Dadaur was also called upon to site. He told that the Govt. has sanctioned 1 Acre of Govt. land on lease basis to construct the School building at Khasra No. 1329/1214/1 at village Dadaur in the

ear 2009 on which the school is running. But the flooded river in the rainy season every year is eroding the soil and is a great threat to their School. He added that the flow of water diverts towards the school due to debris of old bridge lying in the khad. He also told the boundaries of leased land in the half of the khad and asked to construct protection wall along their boundary line.

The School premises situates at left bank of Kansa Khad immediately downside the Dadaur Bridge on Ner Chowk - Gohar MDR. On the other bank, there situates Kansa Ground. The water way at this point is little narrow and huge soil erosion has been occurred at both banks of the khad due to heavy flood during previous rainy season which is declared as state disaster by the Govat. The retaining walls constructed for protection of school premises at this bank as well as for Kansa Ground at other bank have totally been damaged/washed away. The removal of debris of damaged old bridge is in progress at site. Executive Engineer, HPPWD present at spot states that it is not recommendable to construct a retaining wall in the mid of water flow along boundary shown by the Principal DAV School as it will reduce the water way considerably and will obstruct the free flow of flooded water and endanger the bridge on MDR, however for remedial measures, protection work at banks of khad is necessary as per site conditions.

  
Mining Officer  
Mandi Distt. Mandi HP

  
Executive Office  
M.C. Nerchowk

  
Executive Engineer  
HPPWD Nerchowk

  
Regional Officer  
HP State Pollution Control Board

  
Tehsildar  
Balh Distt. Mandi HP

  
Executive Engineer  
Jal Shakti Vibhag Baggi

  
Sub-Division Magistrate  
Balh, Distt. Mandi HP

58 ANNEXURE-R-II  
E 1493425  
12/3/24  
DA II (10)  
SD  
6/3

HIMACHAL PRADESH  
PUBLIC WORKS DEPARTMENT

No. PW-NCD-WA/Misc./2023-24- 14998-99  
To

Dated: 4/3/24

✓ The Deputy Commissioner,  
Mandi, District Mandi (H.P.)

Subject:- O.A No. 620/2023 titled as Prasant Shirma and others V/s State of H.P. & other filed in National Green Tribunal New Delhi.

Reference:- Your office Office Order No. MND/Dev/DA-II/O.A. No. 620/2023-2958-64 dated 29-01-2024 & 8787-92 dated 04-03-2024.

Sir,

In this context, it is submitted that the debris of old bridge lying in Kansha river near Kansha bridge on Shimla Mandi road via Tattapani has been removed. (Photograph attached)

Submitted for your kind information please.

DA. As above.

Executive Engineer,  
HPPWD Division Nerchowk  
Distt. Mandi (H.P.)

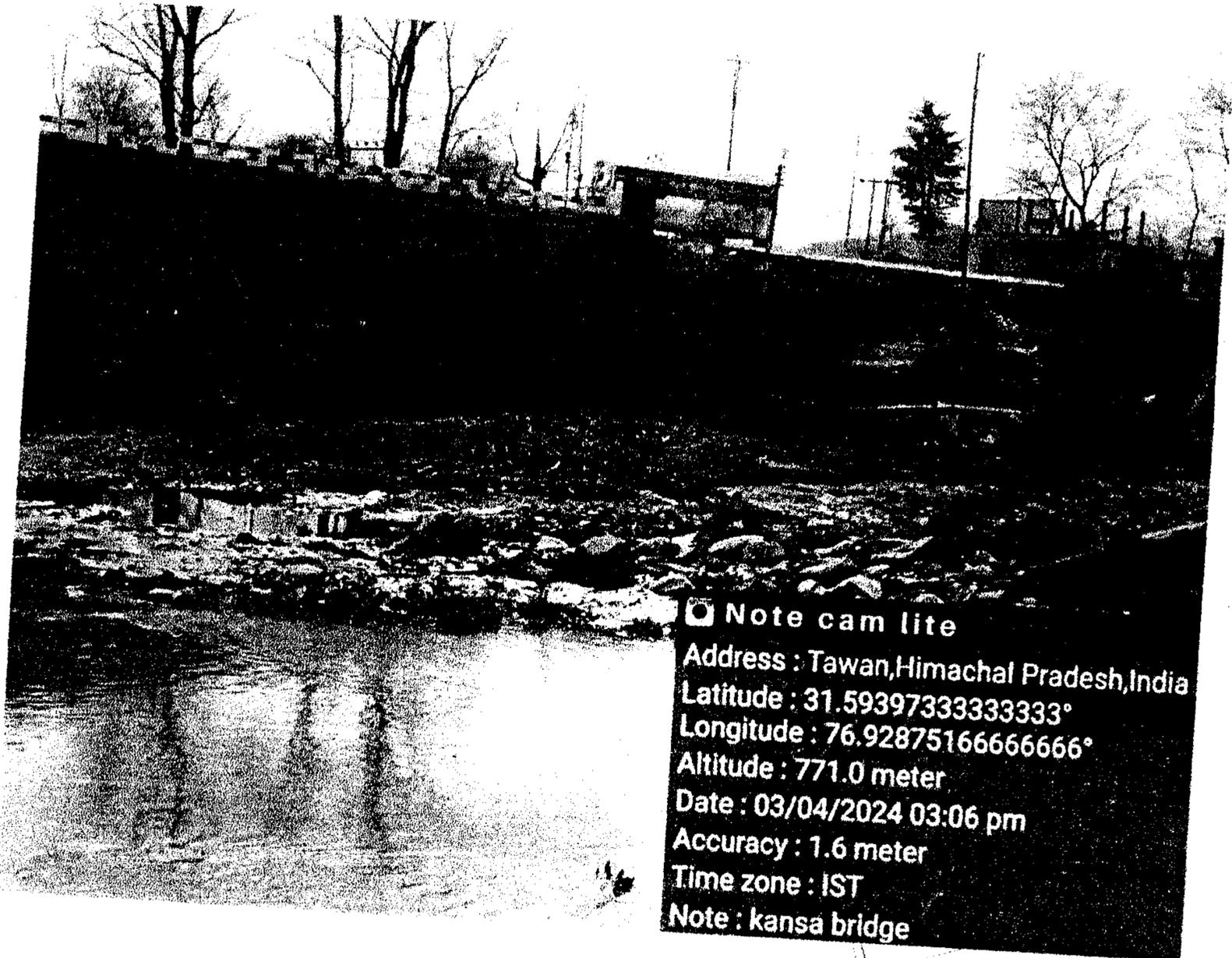
Copy to:

1. The Assistant Engineer, Chakkar Sub Division, HPPWD Nerchowk w.r.t. his office letter No. 3337-38 dated 26-02-2024 for information.

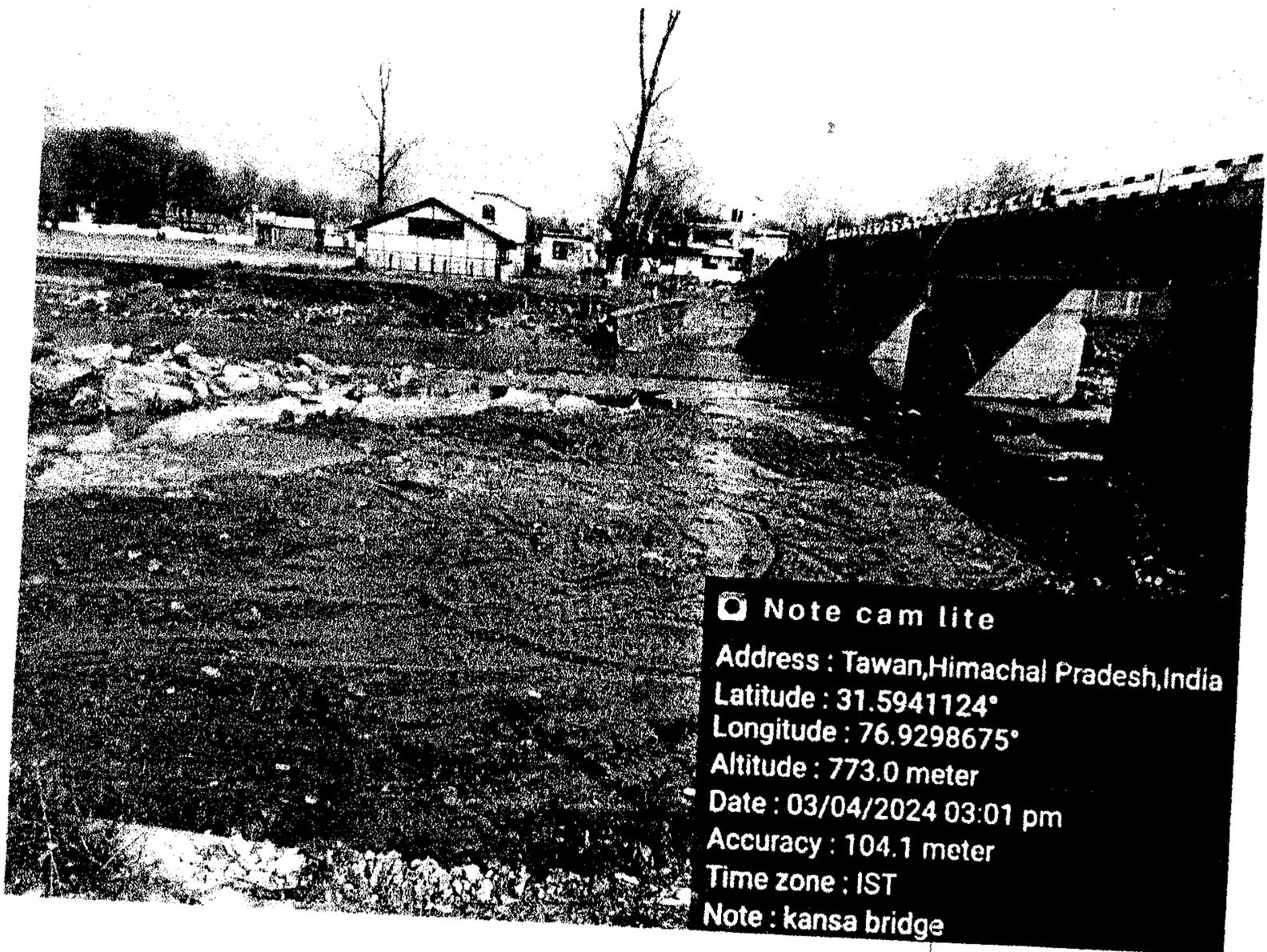
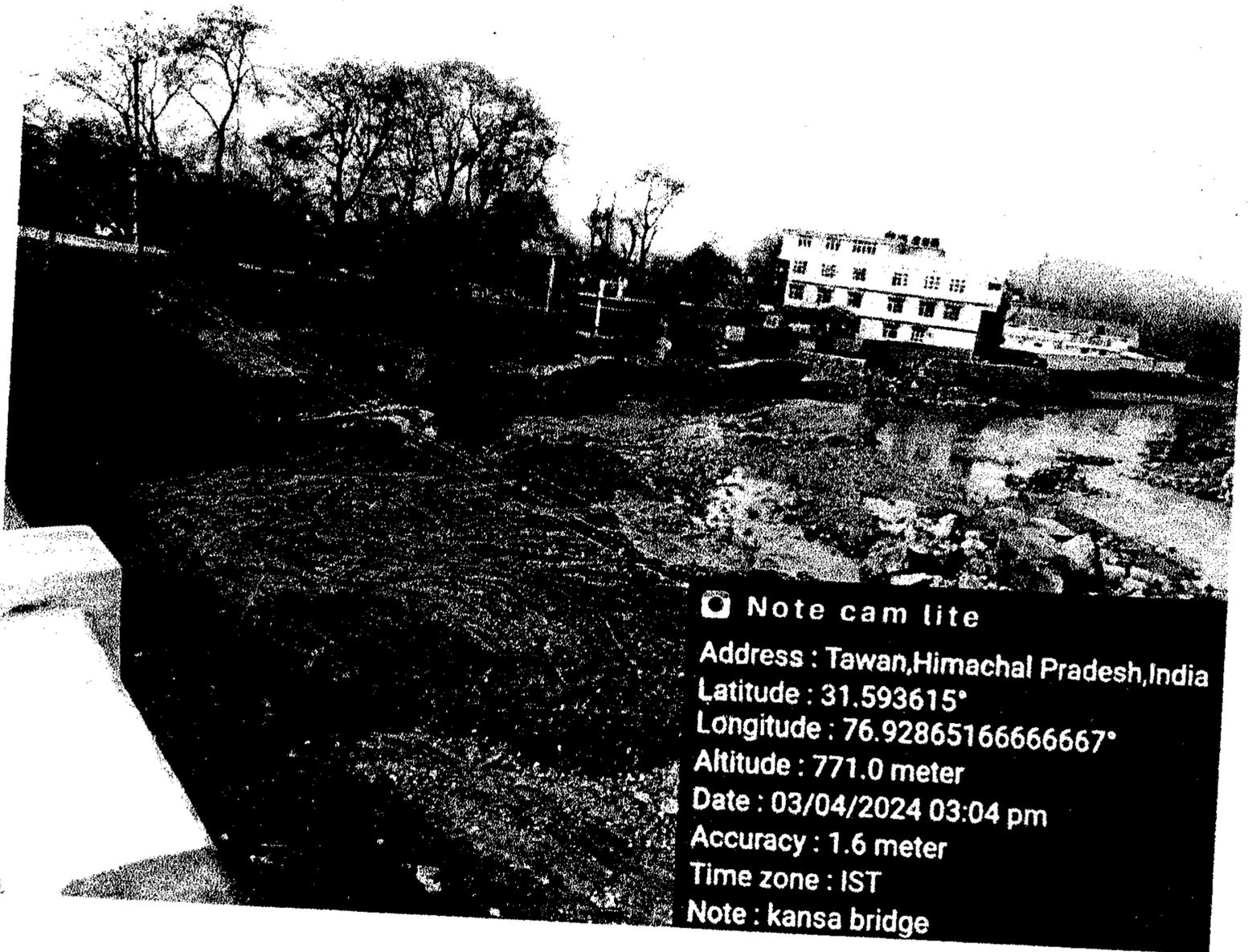
Executive Engineer,  
HPPWD Division Nerchowk  
Distt. Mandi (H.P.)



Note cam lite  
 Address : Tawan,Himachal Pradesh,India  
 Latitude : 31.593605000000004°  
 Longitude : 76.92844833333334°  
 Altitude : 771.0 meter  
 Date : 03/04/2024 03:04 pm  
 Accuracy : 1.5 meter  
 Time zone : IST  
 Note : kansa bridge



Note cam lite  
 Address : Tawan,Himachal Pradesh,India  
 Latitude : 31.593973333333333°  
 Longitude : 76.928751666666666°  
 Altitude : 771.0 meter  
 Date : 03/04/2024 03:06 pm  
 Accuracy : 1.6 meter  
 Time zone : IST  
 Note : kansa bridge



13



**Note cam lite**

**Address : Tawan,Himachal Pradesh,Indi**

**Latitude : 31.593905000000003°**

**Longitude : 76.928265°**

**Altitude : 773.0 meter**

**Date : 03/04/2024 03:02 pm**

**Accuracy : 2.0 meter**

**Time zone : IST**

**Note : kansa bridge**

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BEFORE THE NATIONAL GREEN TRIBUNAL(PRINCIPAL BENCH), NEW DELHI  
**ORIGINAL APPLICATION NO.620/2023**

**IN THE MATTER OF:**

Prashant Sharma & Others .

....Applicants

Versus

State of Himachal Pradesh &Ors.

...Respondents

**VAKALTNAMA**

KNOW ALL to whom these presents shall come that I/we **Aproov Devgan** working as Deputy Commissioner, Mandi in the State of Himachal Pradesh, do hereby appoint **SHRI Divyanshu Kumar Srivastava**, hereinafter called the Advocate to be My/our Advocates in the above noted case and authorize them/him:

- a) To act, appear and plead in the above noted case in this court in any other court in which the same may be tried or heard and also in the appellate courts.
- b) To sign, file, verify and present pleading, applications, appeals, cross-objections or petitions for execution, review, revision, withdrawal, compromise or other petition, replies, objections affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.
- c) To file and take back documents.
- d) To withdraw, or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.
- e) To take out execution proceedings.
- f) To deposit, draw and receive moneys, cheques and grant receipts therefor and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
- g) To appoint and instruct any other Legal Practitioner authorising him to exercise the powers and authorities hereby conferred upon the Advocate whenever he may think fit to do so and to sign the power of attorney on my/our behalf.

And I/we the undersigned do hereby agree to ratify and confirm acts done by the Advocate or his substitute in the matter my/our own acts as if done by me/us to all intents and purposes.

And I/we undertake that I/we or my/our authorised agent would appear in the court on all hearings and will inform the Advocate for appearance when the case is called.

And I/we the undersigned do hereby agree not to hold the Advocate or his substitute responsible for the result of the said case in consequence of his absence from the court when the said case is called up for hearing, or for any negligence of the said Advocate or his substitute.

And I/we the undersigned do hereby agree that in the event of the whole or any part of the fee agreed by me/us to be paid to the Advocate remaining unpaid, he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. If any costs are allowed for an adjournment, the Advocate would be entitled to the same.

IN WITNESS WHERE OF I/we do hereunto set my/our hand to these presents of which have been understood by me/us this 15h day of March, 2024.

ACCEPTED:

*Divyanshu*

*[Signature]*

**CLIENT**

**(ADVOCATE )**

Divyanshu Kumar Srivastava  
D/1383/2015  
48 Lawyers Chamber Supreme Court  
9711872319  
dksrivastava0511@gmail.com