

No. SML-LB-II (W-31/22)/2023- 674
Office of the District Magistrate, Shimla,
District Shimla, Himachal Pradesh

Dated : Shimla-171001, the 25 March, 2022

To

The Registrar General,
Principal Bench,
National Green Tribunal,
New Delhi.

Sub:-

Reply / response in compliance to the directions issued by the Hon'ble National Green Tribunal on 20-01-2023 in Original Application No.266/2022 titled as Narayan Dass V/s State of Himachal Pradesh and is fixed for hearing on 06-04-2023 on Behalf of the District Magistrate Shimla .

Sir ,

Please refer to the above mentioned subject .In this context, it is requested that the above case was listed before the Hon'ble National Green Tribunal on 20-01-2023 and has passed the following directions:

"1. Vide order dated 20.07.2022, notices were ordered to be issued to the Principal Secretaries, Departments of Revenue, Forests and Panchayti Raj, Government of Himachal Pradesh.

2. As per office report notices were duly served on the respondent. However, none has appeared for them.

3. Notices alongwith copies of the application and Report be issued to (1) State of Himachal Pradesh through Chief Secretary, Government of Himachal Pradesh, and again to (2) Principal Secretary, Department of Revenue, Government of Himachal Pradesh,

(3) Principal Secretary, Department of Forests, Government of Himachal Pradesh and

(4) Principal Secretary, Department of Panchayti Raj, Government of Himachal Pradesh,

(5) State PCB and (6) District Magistrate, Shimla who stand impleaded as respondents no. 1 to 6. Registry is directed to to prepare and attach memo of parties with the application.

- 5. Reply/response on behalf of respondents no. 1 to 6 be filed within two months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.*
- 6. List for further consideration on 06.04.2023.*
- 6. In the meanwhile, State PCB and District Magistrate, Shimla are directed to ensure that no further change in the topography/landscape of the Khasra number in question is made and there is no cutting of trees or removal of any other vegetation from the same.*
- 7. A copy of the order along with copies of the application and report of the Joint Committee be also forwarded to the Chief Secretary, State of Himachal Pradesh, Principal Secretaries, Departments of Revenue, Forests and Panchayati Raj, Government of Himachal Pradesh, State PCB and District Magistrate, Shimla by email for compliance.”*

That in compliance to the directions issued by the Hon'ble National Green Tribunal, the matter was enquired through Sub-Divisional Magistrate Shimla (Rural) who sought report from the concerned departments. After going through the reports received from various departments and comments obtained from the Sub- Divisional Magistrate Shimla (Rural) the parawise reply to the above OA is submitted as under :-

- 1. That the contents of the para No. 1 of the OA is narrative in nature with respect to the land in question, hence require no comments.*
- 2. That the contents of para No 2 of the OA are descriptive in nature and requires no reply as facts which have been described in this para are not denied as per ground position.*

3. That in reply to this para, it is submitted that the averments relates to a specific event with no factual details and the same has not been confirmed by any department concerned.
4. That in reply to this para, it is submitted that as per the report of Tehsildar Shimla (Rural), as per Missal Haqiyat for the year 2016-17, land comprising in Khata /Khatauni No 123/185 Khasra No 308/1 area measuring 0-33-56 hect. and classification is recorded as Charagah which is owned by the Government of H.P. and the right of **"Tabe Haquq Bartan Bartan Daran"** as per Wajib-ul-urg is recorded in favour of residents of the villagers. Further, he has reported that in the previous Jamabandi for the year 2001-02, old Khasra No. 1006/683 area measuring 11.16 Bighas and classification was shown as Charand and possession entered in the name of villagers (residents) and ownership recorded in the name of Govt. of H.P. It is pertinent to mention here that most part of land of Khasra no 308/1 area measuring 0-33-56 hect exists a ground which has been found constructed, and other parts of the same Khasra No there are trees of deodar, alpine, shrubs and on some portion of the land a Panchayat Ghar also exists. The density of trees is very shallow and sparse in the vicinity of the ground (copy enclosed). It is submitted that in respect of land use change it is clear that the site has been worked on but no major land use change is discernible either with respect to old records or new entry in Jamabandi as ownership pertains to Govt of HP with no express consent whatsoever on record from any competent authority indicating such change in land use.
5. That in reply to this para it is submitted that the Divisional Forest Officer Shimla (Rural) has submitted the reply of CWPII No 24/2022 which was registered by the Hon'ble High Court of H.P. on the similar complaint on behalf of respondent No 3 of original petition, wherein it has been stated that although seedling plants from the department for plantation were demanded by Yuvak Mandal, Mahila Mandal but department was not involved in the said activity. Hence, for want of knowledge, the allegation leveled in this para are denied.

The report received from the Divisional Forest Officer, Shimla is annexed as **Annexure R/6/1**

6. That in reply to this para, it is submitted that as per the reply of the Executive Engineer Jal Shakti Division No -1, Kasumpti, Shimla -9, the pipe line of 50mm feeding 45 water connections which were passing through the middle of the ground, has already been shifted to the side of the mentioned area, so as to avoid the damages to the water supply pipe line. There is no mention of any activity damaging it but, as a matter of precaution the steps has been taken. **(Report is annexed as R/6/2)**
7. That in reply to para No 7, the Assistant Engineer HPSEB, Jutog Shimla has reported that no transmission line or poll has been replaced till date, however, at the time of construction of 33 KV Sub Station the electricity poll had fallen during the construction of retaining wall and presently their 11 KV Banuti feeder line is not in working order.**(Report is annexed as Annexure R/6/3)**
8. That in reply to this para it is submitted that no reports as such relating to felling of tree is available on record and hence the contents of this para are denied.
9. That the contents of this para are wrong, hence denied. In this regard this is refuted as no inference can be drawn in this matter regarding any conspiracy at the part of anyone.
10. That the contents of this para are wrong, hence denied. It is submitted that the averments have been made on no concrete grounds and have no co-relation w. r. t. felling of trees and any other consequential happening. In this regard forest department has already vehemently denied any allegation with respect to felling of trees or trade in trees in any manner.
11. This para requires no reply on behalf of replying respondents has it is based on event having no co-relation with the said allegations.
12. This paragraph is descriptive in nature and hypothetical in its averments which do not hold any water as no such act or omission has been alleged in this regard. That as per the report of District Ayush Officer Shimla, the Ayurvedic Health Centre Banuti Devi is presently housed in Panchayat Ghar building, since 03-03-2022.

However, it was earlier running in old Panchayat Ghar building (rent free), & old building was already in bad condition during the construction of ground. Moreover, the losses occurred while construction of ground to the building in which Ayurvedic Health Centre Banuti Devi was running earlier cannot be evaluated by this office as it was Gram Panchayat building and its office has been shifted to the new accommodation. **(Report is annexed as Annexure R/6/4)**

13. That the contents of this para require no comments on behalf of the respondents. However detailed submissions in this regard have already been made in para No 7 supra.
14. That in reply to this para it is submitted that there is a pitch about 2 mtrs of concrete made on the spot but having no relation as to said allegations as it is attributed to no one but to local children for sports purpose only.
15. That the contents of this para merit no reply as it is descriptive in nature and based on conjecture.
16. That the contents of this para are wrong, hence denied as the averments made in this para are based on no verifiable evidence or concrete ground.
17. That in this regard it is submitted that most part of land comprising in Khasra No 308/1, as per the report of Block Development Officer Totu (Hirangar) and Secretary Gram Panchayat Dudhalhati, the status quo of the said topography /landscape in compliance to the orders/ directions passed / issued by the **Hon'ble NGT on dated 20-07-2022 has been maintained.** There is a ground consisting in Khasra No 308/1 as per revenue record and there is no change in the topography / landscape of Khasra no 308/1. The Gram Panchayat has never removed/fallen any tree from the said area/ playground and no funds were sanctioned for construction of any cricket pitch by the Panchayat. Besides this, they have intimated that till date, no funds has have been utilized for the construction of the said ground by Gram Panchayat Dudhalhati and presently the said Panchayat has maintained the status quo in compliance to the order/ directions

passed by the Hon'ble NGT on dated 20-07-2022. (Report of Block Development Officer is Annexed as Annexure R/6/5.)

Further, it is also submitted that the Forest Department in its reply submitted by the Chief Conservator of Forest in CWPIIL No 24 of 2022 which was registered by the Hon'ble High Court on the same complaint as the OA No 266 of 2022 has reported that the petition appears to be a result of revenge of rivalry as no felling of trees taken place in the area in question. Further he as reported that there exists Khasra No 308/1, just abutting the Khasra No 308 , the allegation with regard to illicit felling of trees adjoining the play ground so exit in land comprising in Khasra No 308/1 is not correct and hence strongly denied.

In view of the submissions made here in above it is submitted that, the above original application devoid of any merit may kindly be dismissed in the interest of justice and fair play. Hence, the compliance report is submitted for your kind perusal please.

Encl:- As above

Yours faithfully,

District Magistrate,
Shimla, District Shimla

Endst. No. As above:-

Dated:

March, 2023

Copy forwarded to:-

1. The Principal secretary (Revenue) to the government of Himachal Pradesh for information please.
2. The District Attorney, H.P. Govt. Legal Cell, Himachal Bhawan Sikendra Road, New Delhi, Chanakya Puri 110001 for information alongwith copy of above OA and he is also requested to supply the copy of the above compliance report to the concerned, Panel Advocate for NGT for defending the State.

District Magistrate ,
Shimla, H.P.

Ammanur/6/1

Office of the Divisional Forest Officer,
Shimla Forest Division (Rural), Shimla
Himachal Pradesh.



☎ 0177-2623412 (O)
0177-2628193 (R)
0177-2623412 (FAX)
E-mail: dfoshi-hp@nic.in

H. P. FOREST DEPARTMENT, MISTCHAMBER, KHALINI SHIMLA-171002.

No. CWPIL/ 9048 Dated 9-2-2023
To:

CCF Shimla Circle.

Sub: Notice OA No.266/2022 Naryan Dass & Anr. Vs State of HP.

Memo:

Please refer to office endst. No. (Court Corres) 8068 dated 06.02.2023 on the subject cited above.

2. In this regard it is submitted that the petitioner Sh. Naryan Dass had filed a OA No.266/2022 and simultaneously a CWPIL No. 24/2022 titled as Naryan Dass & Anr. Vs State of HP as well as court on its own motion Vs State of HP & Others. The matter came up for hearing before the Hon'ble NGT on 26.04.2022 when the Hon'ble NGT was pleased to direct the State Government to constitute a committee and directed as under:-

" In view of the serious allegations made in the present letter Petition, it would be appropriate to have a factual and action taken report from a Joint Committee comprising of State PCB, Divisional Forest Officer and Deputy Commissioner, Shimla. The State PCB will be the Nodal agency for coordination and compliance. The Joint Committee may meet within four weeks, undertake site visits, look into the grievances of the applicants and take requisite action by following due process of law. Factual and action taken report may be furnished within two months by e-mail at judicial-ngt@gov.in preferably in the front of searchable PDF/OCR Support PDF and not in the form of Image PDF.*

In order comply with the directions of Hon'ble NGT the committee visited the spot and sent its report to the Hon'ble NGT within the stipulated time.

The CWPIL No. 24/2022 came to be heard before the Hon'ble High Court on 19.04.2022 when the Hon'ble Court was pleased to pass the following order:-

" Issue notice. Mr. Vikas Rathore, Ld. AG HP appears and accept service of notice on behalf of the respondents. He prays for and is granted four weeks time to file reply. List thereafter. In the meanwhile, status quo with regard to the land in question, shall be maintained".

The forest department prepared para wise reply of the CWPIL and was duly got vetted from the Ld. AG HP on 03.06.2022 (copy enclosed) but the reply was not filed by the HP forest department and reply was filed by DC Shimla on the basis of the comments so furnished by the forest department as per vetted reply. Now the Hon'ble

High court has finally closed and disposed off the CWPII No. 24/2022 on dated 25.07.2022.

The O.A No. 266/2022 titled as Naryan Dass Vs State of HP was listed before the Hon'ble NGT on 20.01.2023 and the Hon'ble NGT directed the state of HP to file the reply within two months. No direction from the NGT was received to file the reply prior to 20.01.2023. However the stand of the forest department is same that had been taken in the reply so prepared and got vetted from the AG HP in CWPII No. 24/2022 on 03.06.2022.

sd
Divisional forest Officer
Shimla Forest Division
Shimla-2.

Endst. No. 9049 Dated 9-2-2023

Copy alongwith vetted reply on 03.06.2022 is submitted to Sub- Divisional Officer (C) Shimla (Rural) District Shimla HP w.r.t his office letter No. SML-SDS. LA (CWP)2022-81-87 dated 06.02.2023 for information and necessary action please.
Encl:AS above:

K.T.
Divisional forest Officer
Shimla Forest Division
Shimla-2.

Blm
8/2/2023

Email

Anu R/ 6/2
SDM, SHIMLA RURAL HP

Reply of Urgent Court Matter

From : kasumptidivision@gmail.com

Wed, Feb 08, 2023 03:25 PM

Subject : Reply of Urgent Court Matter

To : SDM, SHIMLA RURAL HP <sdmshr-shi-hp@nic.in>

Sir,

Reply to point no 6

The pipe line of 50mm feeding 45 water connections which were passing through the middle of the ground, has already been shifted to the side of the mentioned area, so as to avoid the damages to the water supply pipe line.

--

Thanks & Regards
Er. Basant Singh Rathore
Executive Engineer,
Jal Shakti Division No.1,
Kasumpti, Shimla-171009
Tel / Fax 01772620591

Amene R/6/3

HIMACHAL PRADESH STATE ELECTRICITY BOARD LIMITED
(A State Govt. undertaking)



Registered office:
(CIN):
GST No.
Telephone No.
Website address:
Email



Vidyut Bhawan, HPSEBL, Shimla-171004(H.P.)
U40109HP200090C31255
2 AACCH4894EH2B
0177-2803000, 2801075 (Office), 2858984(Fax)
www.hpsebl.com
cmd@hpsebl.in & director@hpsebl.in



NO./JES/Court Case/2022-23-

1844.

Dated:- 08.02.2023.

To,

The Sr. Executive Engineer,
Shimla Elect. Division No. I,
HPSEB Ltd. Shimla- 171009.

Subject: - QA No. 266/2022 titled as Narayan Dass Vs State of H.P.

Sir,

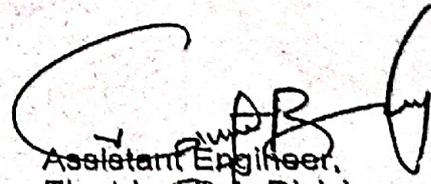
"Jai Hind"

With reference to your office letter No. SEDW-5/2022-23-10868-70 dated 08.02.2023. In this regard appended below please find the para wise reply related to this office is as under-

पैरा न० 7- कनिष्ठ अभियंता बनूटी द्वारा दिनांक 08/02/2023 को दी गई रिपोर्ट के अनुसार बिजली विभाग द्वारा किसी भी पोल व लाइन को नहीं बदला गया है परंतु HPSEBL द्वारा जब 33 के.वि. सब स्टेशन का निर्माण किया गया उस दौरान डोंगे का निर्माण करते समय विद्युत पोल गिर गया था वर्तमान में हमारी 11 के. वि. ओल्ड बनूटी फीडर की AB केबल बंद पड़ी हुई है।

पैरा न. 13- यह पैरा डिवीजन न. 2 कसुम्पटी शिमला-9 के अधीन आता है।

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


Assistant Engineer,
Electrical Sub-Division,
HPSEBL, Jutogh Shimla-11.

No.: -DAO/Ay(G)(7)14/2011-1-

Dated: Shimla-02

To

[Signature]
The Sub-Divisional Officer (C)
Shimla (Rural),
Distt Shimla.

Subject:- Reg O.A. No. 266/2022 titled as Narayan Dass vs State.

R/Sir.

Kindly refer to your letter no. SML.SDS.LA(CWP)/2022-81-87 dated 06/02/2023 on the matter cited as subject.

In this regard it is submitted that the Ayurvedic Health Centre Banuti Devi is presently housed in Panchayat ghar building since 03/03/2022 however it was earlier running in Old Panhayat Building (Rent Free) whose old building was already in bad condition during the construction of ground.

Hence the losses occurred while construction of ground to the building in which Ayurvedic Health Centre Banuti Devi was working earlier cannot be evaluated by this office as it was Gram Panchayat's building and this office has shifted the AHC to new accommodation.

Report of AMO, In charge AHC Banuti Devi (attached for perusal)

Yours faithfully

[Signature]
(Dr. Pawan Kumar Jairath)
District Ayush Officer
Shimla, Distt. Shimla.

8/2/22

Amended R/16/5

To, 482663
10-02-2023

No. DBT-Court Case-(Dudhalthi)-5/2022-23-
Office of the Block Development Officer,
Development Block Totu (Hira Nagar).
District Shimla-171011. H.P.

The Sub-Divisional Officer (Civil),
Shimla Rural, District Shimla.

LA

Dated Shimla-171011 06 February, 2023

Subject:

O.A. No. 266/2022 titled as Narayan Dass Vrs. State of 10/2/23
Himachal Pradesh.

Sir,

I am to refer to your telephonic message dated 06-02-2023 on the subject cited above and to refer to letter No. SML-LB-II(W-31/22)/2023-237 dated 06-02-2023 issued by the Additional District Magistrate (L&O) Shimla District.

In this regard, it is submitted, that the concerned Gram Panchayat Dudhalthi intimated that they have maintained the status quo of the said topography/landscape in compliance to the orders/directions passed/issued by the hon'ble NGT on dated 20-07-2022. There is a ground consisting in khasra number 308/1 as per revenue record, and there is no change in the topography/landscape of khasra number 308/1. The Gram Panchayat has never removed/fallen any tree from the said area/playground and presently there is no cricket pitch exists on this land. Besides this, Panchayat also intimated that till date, no funds have been utilized for the construction of the said ground by Gram Panchayat Dudhalthi and presently the said Panchayat had maintained the status of the said area as earlier reported to the high authorities on dated 12-10-2022 in compliance to the orders/directions passed/issued by the hon'ble NGT on dated 20-07-2022 (copy enclosed.)

Yours faithfully,

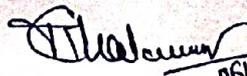
Encl: As above(1).

Block Development Officer,
Dev. Block Totu (Hiranagar),
District Shimla, H.P.
email-bdototu@gmail.com.
Cont. No. 0177-2837966

Dated: 06 February, 2023

Endst. No. As above: 776
Copy forwarded to the:

1. Deputy Commissioner, Shimla, District Shimla for information please.
2. Additional District Magistrate (L&O) Shimla, District Shimla w.r.t their above letter for information please.


Block Development Officer,
Dev. Block Totu (Hiranagar),
District Shimla, H.P.