

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
AT NEW DELHI**

M.A. No. 79/2023
in
O.A. No. 758/2022

In the matter of:-

Paldan Phuchang

.....Applicant

Versus

State of Himachal Pradesh & others

.....Respondents

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Date: 24.01.2023

Place: Kullu, H.P.

Respondent no. 02
HPSPCB.

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

M.A. No. 79/2023

in

O.A. No. 397/2022

IN THE MATTER OF:-

Paldan Phuchang

.....Applicant

Versus

1. State of Himachal Pradesh through Chief Secretary, E-201B, E-Ellerslie Building, Himachal Pradesh Government Secretariat, Shimla.171002.
2. Himachal Pradesh State Pollution Control Board through its Member Secretary, Him Parivesh, Phase-III, New Shimla-171009.
3. District Magistrate, Kullu, Office of Deputy Commissioner, Kullu, Himachal Pradesh-. 175101.
4. Executive Officer, Municipal Council, Manali, Himachal Pradesh, Dhalpur, Kullu, Himachal Pradesh-175101.

.....Respondents

**RESPONSE ON BEHALF OF RESPONDENT No. 02
i.e. H.P. STATE POLLUTION CONTROL BOARD.**


Regional Officer
HP State Pollution Control Board
Kullu (H.P.)

Most respectfully sheweth:-

1. That the present M.A. (79/2023) has been registered based on report dated 12.05.2023 submitted by the Joint Inspection Committee constituted by the Hon'ble NGT vide order dated 04.01.2023 in the Original Application and the issue in the instant matter relates to a Solid Waste Processing Facility/site at Village Rangadi, Gram Panchayat Shallen, Post Kalath, Tehsil Manali, District Kullu, H.P.
2. That after considering the report of the Joint Inspection Committee (of which HPSPCB was a member), the Hon'ble NGT vide order dated 08.12.2023 passed in the present M.A. impleaded the above-named respondents and directed to file their response in this matter.
3. That it is submitted that the H.P. State Pollution Control Board (hereinafter referred to as 'the State Board' in short) has been inspecting/monitoring the Solid waste processing site at village Rangadi, on regular basis and necessary directions have been given to the Municipal Council, Manali from time to time for scientific management & disposal of solid waste.
4. That the latest inspection of the Solid Waste Management site/facility, village Rangadi, Tehsil Manali, District Kullu, H.P. was conducted on


Regional Officer
HP State Pollution Control Board
Kullu (H.P.)

03.01.2024. At the time of inspection, heaps of the fresh mixed waste was found at the site. A lot of Legacy waste was also found at the site which is required to be processed scientifically. It was further observed that Compost pits provided at the facility were filled with the mixed waste, bio-methanation facility and bio-composter was not been provided despite repeated directions issued by the State Board. The retaining wall provided around legacy waste towards river Beas was found damaged near Gau-Sadan and waste was found overflowed towards the bank of River Beas due to over stacking of fresh waste over legacy waste site. The leachate collection pits which were earlier provided by the facility have been washed away during the flash floods and the leachate was found flowing into River Beas without any treatment. The ETP provided at the site was found dysfunctional despite various notices issued by the State Board from time to time.

It is submitted that the State Board has issued necessary directions/notices to Municipal Council, Manali from time to time to expedite the processing of the legacy waste and for installation of additional machinery/ infrastructure necessary for compliance of Solid Waste Management Rules, 2016. Opportunity of personal

hearing to the Executive Officer, M.C. Manali was also given on 20.10.2022 wherein various directions were given including making the ETP functional and construction of leachate collection pits. The photographs of the site taken during the inspection on 03.01.2024 are annexed as **Annexure-R-2/1**.

5. That with respect to the action taken by the Board against Municipal Council, Manali for environmental violations, it is submitted that previously vide office order dated 17.6.2021 the State Board had imposed the Environment Compensation amounting to Rs. 5,000,00/- (Rupees Five lakhs) for improper management of the solid waste. Thereafter, vide office order dated 10.05.2023 further Environmental Compensation of Rs. 15,30,000/- (Rupees Fifteen lakhs thirty thousand) was imposed on the Municipal Council, Manali for discharge of untreated leachate into the River Beas and not meeting the prescribed standards for leachate for the violation period w.e.f. 08.04.2022 to 08.09.2022. (Copy of the office orders dated 10.05.2023 and 17.06.2021 are annexed as **Annexure- R-2/2 collectively**). In addition, a fresh notice (**Annexure- R-2/3**) has been issued to Municipal Council, Manali to show cause why Environmental Compensation should not be levied on


Regional Officer
HP State Pollution Control Board
Kullu (H.P.)

M.C. Manali for continuous violation w.r.t. discharge of untreated leachate into the River Beas.

Prayer:-

In view of submissions made above, it is humbly submitted that the application may kindly be disposed of qua the replying respondent. Any other order deemed fit by the Hon'ble Tribunal may kindly be passed in the interest of justice.

Place: Kullu, H.P.
Date: 24.01.2024


Respondent No. 2
Regional Officer
HP State Pollution Control Board
Kullu (H.P.)

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
AT NEW DELHI**

M.A. No. 79/2023

in

O.A. No. 758/2022

IN THE MATTER OF:-

Paldan Phuchang

.....Applicant

Versus

State of Himachal Pradesh & others

.....Respondents

AFFIDAVIT

I, Sunil Sharma, son of Sh Rajender Dev, aged about 37 years, presently working as Regional Officer, H.P. State Pollution Control Board at Regional Office Kullu, Himachal Pradesh, do hereby solemnly declare and affirm on oath as under:-

1. That I am well conversant with the facts of the case and and duly authorised to file this affidavit on behalf of Respondent No.2.
2. That the submissions made in paras 1 to 5 of the reply are true and correct to the best of my knowledge, derived from official record, no part of it is false and nothing material has been concealed therefrom.



**Regional Officer
HP State Pollution Control Board
Kullu (H.P.)**

3. I further affirm that the contents of this affidavit are true and correct to my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

Verified at Kullu on 24th day of Jan. , 2024 .



DEPONENT

**Regional Officer
HP State Pollution Control Board
Kullu (H.P.)**

Photographs of inspection of Waste processing Facility, Rangree on dated 03.01.2024:



Fig: The Official of HPSPCB inspecting site along with Executive Officer, Municipal Council, Manali



Fig: Inert or residual waste mixed with organic and plastic content lying at site



Fig: The Vehicle containing mixed waste at the plant.



Fig: Heap of Fresh Waste lying at the Site.



Fig: Compost pits filled with mixed waste.



Fig: Retaining wall around the legacy waste site and damaged portion towards the Gau- Sadan.



Fig: Waste overflown towards the river Beas.

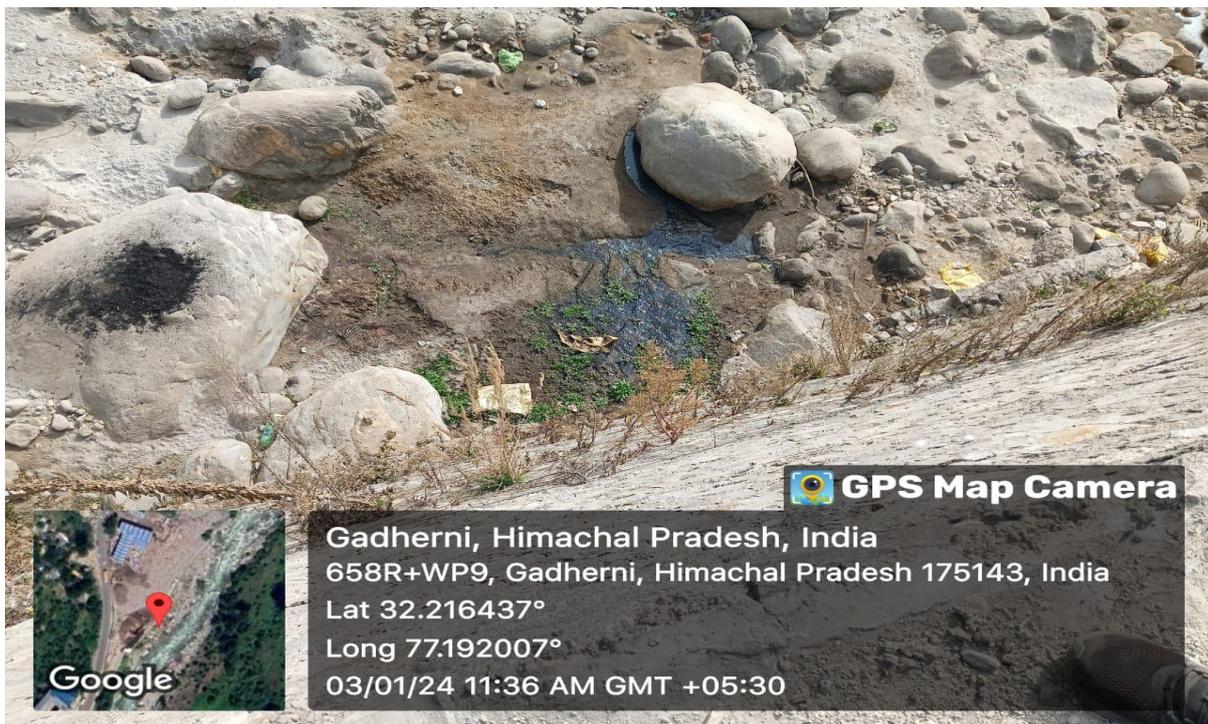


Fig: Leachate flowing into river Beas without treatment.

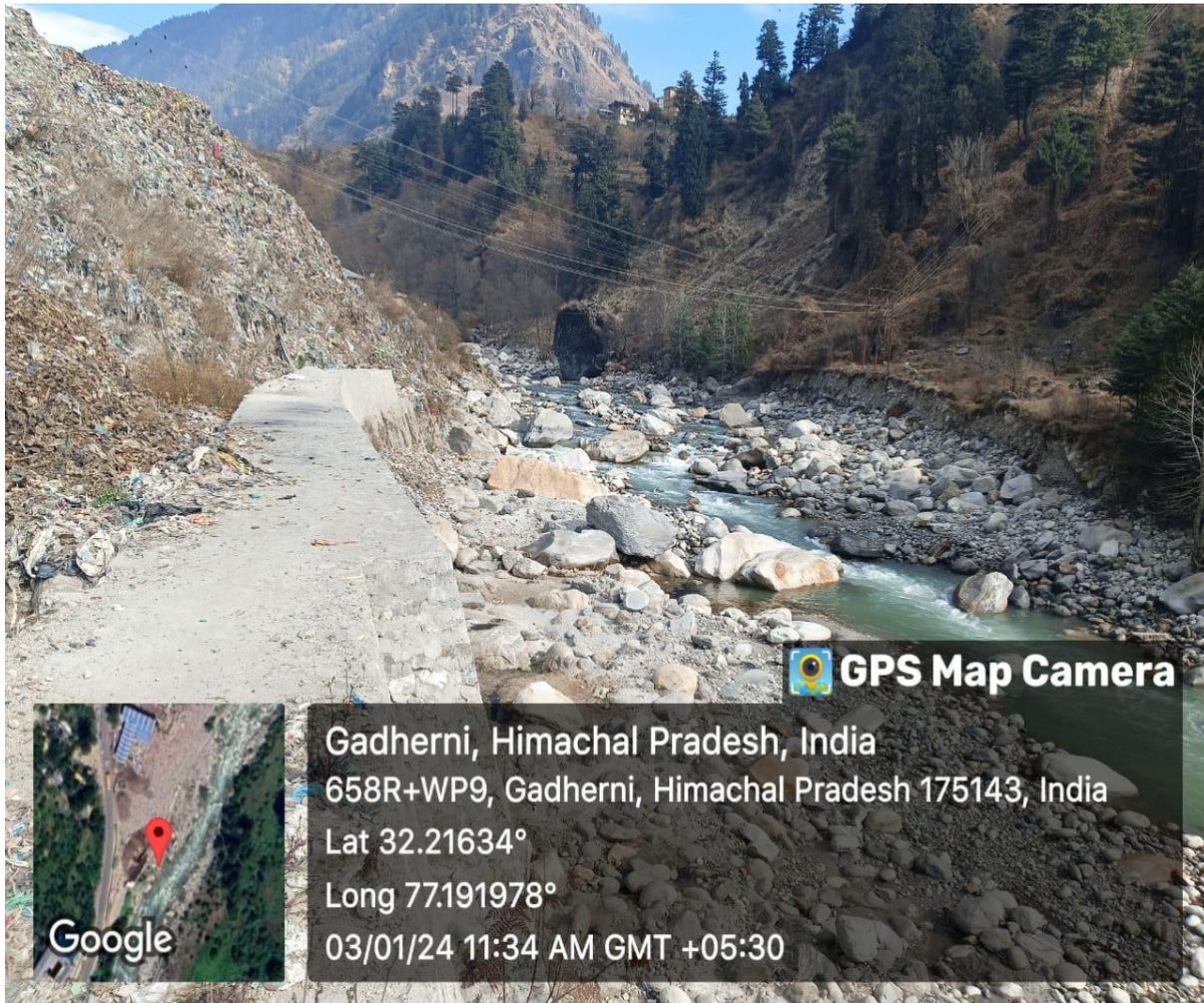


Fig: Retaining wall provided towards the river Beas for legacy waste.



HP State Pollution Control Board

HIM Parivesh Bhawan, Phase-III, Below BCS, New Shimla-09

Phone No. 0177-2673766, 2673020 FAX-0177-2673018



No. (44)PCB/MSW/M.C. Manali-Vol-I/2020 - 2629

Dated:

To,

The Executive Officer
Municipal Council-Manali,
District Kullu (H.P).

2627-29 17.6-2021 Regd. Post.

Sub: - Environmental Compensation as per Hon'ble NGT Order dated July 02, 2020 in O.A. No. 606/2018 - reg.

Memo:-

Whereas, Show Cause Notice was issued to you vide even file letter no. 14916-18 dated 17-09-2020 for non-compliance under Environment (Protection) Act, 1986 and Solid Waste Management Rules, 2016 and you were directed to take immediate necessary action and submit the Action Taken Report to the office of undersigned within a week but till date, no reply has been received from your end.

Whereas, Regional Officer, HPSPCB Kullu has informed vide letter no. HPSPCB/RO Kullu/1809/Court Matter/Vol-II/2021-591 dated 09-06-2021 that the during inspection on dated 07-06-2021 it has been observed that mix waste is coming to the plant and compost pits provided at Solid Waste Management Plant, Rangri has been found inadequate and non-functional, littering of solid waste was also observed.

Whereas, the above tantamount to violation of order of Hon'ble NGT dated July 02, 2020 in O.A. No. 606/2018 and Solid Waste Management Rules, 2016.

In view of above, it is sufficiently clear that you are not complying with the repeated directions issued by the State Board. **Therefore, ₹ 5,00,000/- (Rs. Five Lakh only) Environmental compensation is hereby imposed on you for violation period w.e.f April, 2020 to August, 2020 in compliance to orders dated 02-07-2020 passed by Hon'ble NGT in O.A. No. 606/2018 and as per CPCB template for assessment of Solid Waste Management Facilities and Legacy Waste Remediation** wherein it is stated as:-

"Interim compensation scale is hereby laid down for continued failure after 31.03.2020. The compliance of the Rules requires taking of several steps mentioned in Rule 22 from Serial No. 1 to 10 (mentioned in para 12 above). Any such continued failure will result in liability of every Local Body to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body from 01.04.2020 till compliance."

Therefore, you are hereby directed to deposit the aforesaid amount in the account of Member Secretary, HP State Pollution Control Board, **Bank of Baroda A/c No. 54140100001617 (IFSC Code BARB0NEWSIM)** under intimation to this office within a week's time failing which action under the provisions of Environment (Protection) Act, 1986 and Solid Waste Management Rule, 2016 shall be initiated against you at your own risk and cost. Also please note, if the violation persists the Environmental compensation will be increased.

The instructions be complied in letter & spirit.

Copy to:-

1. The Director, Urban Development, Talland, Shimla for information please.
2. The Regional Officer, HPSPCB Kullu for further necessary action.

SD/-
(Dr. Nipun Jindal, IAS)
Member Secretary

Nipun Jindal
16/6/21
(Dr. Nipun Jindal, IAS)
Member Secretary,
HPSPCB, Shimla-9
mshppcb@gmail.com

PCB-J004/23/2022-MS - HPSPCB-STATE POLLUTION CONTROL BOARD

196751/2023

REGD.POST**HP State Pollution Control Board**

HIM Parivesh Bhawan, Phase-III, New Shimla-09
Phone No. 0177-2673766, 2673020 FAX-0177-2673018



10-05-23

No.PCB(44)/MSW/MC Manali/2023- 1794-98 Dated: 10-05-23
To,

The Executive Officer
Municipal Council-Manali,
District Kullu (H.P).

Subject:- Environmental Compensation for violation of provisions under Solid Waste Management Rules, 2016.

WHEREAS, under the provisions of Solid Waste Management Rules, 2016 duties and responsibilities of local authorities has been laid out for management and treatment of municipal solid waste in a proper/ scientific manner.

WHEREAS, Solid Waste Management Rules, 2016, Schedule-II, A (a) "... To the extent possible, the waste storage area should be covered. If, such storage is done in an open area, it shall be provided with impermeable base with facility for collection of leachate and surface water run-off into lined drains leading to a leachate treatment and disposal facility..."

WHEREAS, vide report of Regional Office, Kullu, HPSPCB dated 28.11.2022, it has been reported that the sample of leachate generated from legacy waste site. M.C. Manali on 08.4.2022 and 30.06.2022 indicated that it is not meeting the prescribed standards for leachate.

WHEREAS, Personal hearing of Executive Officer, MC Manali was held on 20.10.2022 at H.P. State Pollution Control Board, Head Office before Member Secretary, HPSPCB wherein it was directed that "ETP should be made functional by the MC so that the untreated leachate is not discharged in the vicinity and leachate collection pits may also be constructed"

WHEREAS, vide report of Regional Office, Kullu, HPSPCB dated 6.01.2023, RO Manali carried out inspection on 5.01.2023 and it was observed that the ETP was found non- operational and no collection pits found provided by the MC, Manali and the untreated leachate was going directly to river Beas.

WHEREAS, Hon'ble NGT vide order dated 28.08.2019 passed by in O.A. No. 593/2017 titled Paryavaran Suraksha Samiti V/s Union of India & ors. approved the methodology for levy of Environmental Compensation on the basis of

PCB-J004/23/2022-MS - HPSPCB-STATE POLLUTION CONTROL BOARD

V196751/2023

polluter pays principle on violating units.

WHEREAS, further vide order dated 28.08.2019 the Hon'ble NGT has stated that:-

"No polluted matter can be discharged into a stream or well or on land and no industry, operation or process can be established and no outlet for discharge of sewage used without consent of the Board. The Water Act provides to give directions for closing any such activity as well as for prosecution power to give directions implicitly includes recovery of compensation on polluter pays principle."

WHEREAS, the above acts tantamount to violation of the provisions of Solid Waste Management Rules, 2016 and the penal provisions as directed by the Hon'ble NGT in its order dated O.A. No. 593 of 2017, are attracted.

Therefore, Environmental compensation amounting to ₹15,30,000/- (Rupees Fifteen Lakhs Thirty Thousand only) is hereby imposed on you for violation period w.e.f. 8.04.2022 to 8.09.2022.

Therefore, you are hereby directed to deposit the aforesaid amount in the account of Member Secretary, HP State Pollution Control Board, **Bank of Baroda A/c No. 54140100001617 (IFSC Code BARB0NEWSIM)** under intimation to this office within a week's time failing which action under the provisions of Environment (Protection) Act, 1986 and Solid Waste Management Rule, 2016 shall be initiated against you at your own risk and cost. Also note, if the violation persists the Environmental compensation will be increased

Signed by Anil Joshi, IFS
Date: 09-05-2023 12:06.05

(Anil Joshi, IFS)
Member Secretary
HPSPCB, Shimla-9.

Copy to:-

1. The Pr. Secy. (Urban Development) to the GoHP for kind information please.
2. The Director, Urban Development, Talland, Shimla for kind information & necessary action please.
3. The Deputy Commissioner Kullu for kind information please.
4. The Regional Officer, HPSPCB Kullu for information and further necessary action.

-sd-
(Anil Joshi, IFS)
Member Secretary,
HPSPCB, Shimla-9
mshppcb@gmail.com

REGD.POST



HP State Pollution Control Board
HIM Parivesh Bhawan, Phase-III, New Shimla-09
Phone No. 0177-2673766, 2673020 FAX-0177-
2673018



संयुक्त राष्ट्रसंघ
ONE EARTH • ONE FAMILY • ONE FUTURE

No.PCB(44)/MSW/MC Manali/2023-

14572-76

Dated: 21-1-2024

To,

The Executive Officer
Municipal Council-Manali,
District Kullu (H.P).

Subject:- Show Cause Notice for violation of provisions under Solid Waste Management Rules, 2016.

WHEREAS, under the provisions of Solid Waste Management Rules, 2016 duties and responsibilities of local authorities has been laid out for management and treatment of municipal solid waste in a proper/scientific manner.

WHEREAS, Solid Waste Management Rules, 2016, Schedule-II, A (a) "... *To the extent possible, the waste storage area should be covered. If, such storage is done in an open area, it shall be provided with impermeable base with facility for collection of leachate and surface water run-off into lined drains leading to a leachate treatment and disposal facility...*"

WHEREAS, vide report of Regional Office, Kullu, HPSPCB dated 10.01.2024, it has been reported that the sample of leachate generated from legacy waste site, M.C. Manali on 28.10.2022, 05.01.2023, 27.01.2023, 22.03.2023, 12.06.2023 & 11.09.2023 and the analysis report vide report no 376, 500, 520, 649, 122 & 296 dated 19.12.2022, 27.01.2023, 13.04.2023, 25.05.2023, 26.08.2023 & 31.10.2023 respectively indicated that the waste water is not meeting the prescribed standards for leachate

WHEREAS, Personal hearing of Executive Officer, MC Manali was held on 20.10.2022 at H.P. State Pollution Control Board, Head Office before Member Secretary, HPSPCB wherein it was directed that "*ETP should be made functional by the MC so that the untreated leachate is not discharged in the vicinity and leachate collection pits may also be constructed*"

WHEREAS, vide report of Regional Office, Kullu Municipal Council, Manali is discharging the untreated leachate into river Beas & violating the provisions under the Water (Prevention & Control of Pollution) Act, 1974 and Solid Waste Management Rules framed under the Environment (Protection) Act, 1986.

WHEREAS, Hon'ble NGT vide order dated 28.08.2019 passed in O.A. No. 593/2017 titled **Paryavaran Suraksha Samiti V/s Union of India & ors.** approved the methodology for levy of Environmental Compensation on the basis of polluter pays principle on violating units.

WHEREAS, further vide order dated 28.08.2019 the Hon'ble NGT has stated that:-

"No polluted matter can be discharged into a stream or well or on land and no industry, operation or process can be established and no outlet for discharge of sewage used without consent of the Board. The Water Act provides to give directions for closing any such activity as well as for prosecution power to give directions implicitly includes recovery of compensation on polluter pays principle."

WHEREAS, the above acts tantamount to violation of the provisions of Solid Waste Management Rules, 2016 and the compensatory & punitive action as directed by the Hon'ble NGT in its order dated O.A. No. 593 of 2017, are attracted.

In view of above, it is sufficiently clear that you are not complying with the repeated directions issued by the State Board and **Environmental compensation amounting to 31,80,000/- (Rupees Thirty-one lakh eighty thousand only) is proposed** to be imposed on you for violation of Solid Waste Management Rules, 2016 for violation period w.e.f. 28.10.2022 to 11.09.2023 as per the abovementioned order passed by Hon'ble NGT.

NOW THEREFORE, before proceeding against you in the matter, you are hereby directed to show cause within 7 days as to why above-mentioned Environmental Compensation should not be levied on you in compliance to orders passed by Hon'ble NGT. It may be noted that in event of non-compliance or unsatisfactory deposition, environmental compensation shall be imposed and legal action as per provisions of law shall be initiated against you.

s/d
(Anil Joshi, IFS)
Member Secretary
HPSPCB, Shimla-9.

Copy to:-

1. The Pr. Secy. (Urban Development) to the GoHP for kind information please.

I/328372/2024

2. The Director, Urban Development, Talland, Shimla for kind information & necessary action please.
3. The Deputy Commissioner Kullu for kind information please.
4. The Regional Officer, HPSPCB Kullu for information and further necessary action.

Signed by

Anil Joshi

Date: 23-01-2024 18:20:51

(Anil Joshi, IFS)**Member Secretary,
HPSPCB, Shimla-9
mshppcb@gmail.com**