

(2017) 04 SHI CK 0114
In the High Court Of Himachal Pradesh
Case No : 15 of 2015

COURT ON ITS OWN MOTION

APPELLANT

Vs

STATE OF H P & OTHERS

RESPONDENT

Date of Decision : 27-04-2017

Acts Referred:

[Constitution of India](#), [Article 47](#), [Article 48A](#) - Duty of the State to raise the level of nutrition and the standard of living and to improve public health - Protection and improvement of environment and safe-guarding of forests and wild life

Citation : (2017) 04 SHI CK 0114

Hon'ble Judges : Sanjay Karol, Sandeep Sharma

Bench : Division Bench

Advocate : K D Shreedhar, Shreya Chauhan, Shrawan Dogra, Anup Rattan, Romesh Verma, J K Verma, Jyotsna Rewal Dua, Charu Bhatnagar, Ashok Sharma, Sukarma, Abhinandan Thakur

Final Decision : Disposed

Judgement

1. This Court took suo motu cognizance of the report made by the Registrar (Vigilance) as well as news item published in "The Tribune" dated 26th June, 2015 pertaining to failure in the regulation of traffic in and around the town of Manali in District Kullu, Himachal Pradesh.

2. Perturbed by the difficulty which tourists were facing while visiting District Kullu in general and Manali in particular, this Court on 01.07.2015 directed the State to file a status report indicating what mechanism was in place to check the traffic congestion in Manali and also to come out with a mechanism which ensures that Manali is made accessible and comfortable for the tourists, otherwise the same would adversely affect not only the tourism in Manali but the entire State of Himachal Pradesh, which would be at the costs of the Tourism Industry of the State of Himachal Pradesh in particular and the people of the State in general.

3. The town of Manali is nestled in the land of majestic Himalayas in District Kullu and breath taking beauty of its marvelous landscapes, which includes lush apple orchards as well as steep standing mountain ranges awe-strucks one and all. The town of Manali is situated at a distance of approximately 40 Kms. from District headquarter of Kullu. There are two approach roads leading from Kullu to Manali on each side of river Beas commonly and popularly known as "Left Bank Road" and "Right Bank Road". The main approach road is the "Right Bank Road".

4. The town of Manali is named after the Sanatan Hindu lawgiver Manu. This town lies in North of Kullu valley, which valley is often referred to as the "Valley of the Gods". In fact old Manali village has an ancient temple dedicated to sage Manu. This town is a very popular tourist destination and it attracts not only tourists from the country but from the entire world. However, one can also not shy away from the fact that the small town of Manali perhaps does not has, as of now, the infrastructure which is required to cope with the number of tourists, which this town attracts. Besides the tourist vehicles which tourists ply to the said town, the limited road length of the town has to cater to the vehicles of the localites also both private as well as commercial. One just dreads as to how the Gods might be reacting to this "Valley of Gods" in the present scenario where the valley is chock-a-block with vehicles.

5. Before we proceed any further, it is necessary to understand the way traffic moves to the town of Manali from Bajaura onwards, which primarily is the first major station of District Kullu. The town of Bhuntar is situated at a distance of 5 Kms. from Bajaura. This town has an Airport and is also center for accessing areas such as Kasol, Manikaran and Manali. From Bhuntar, majority of traffic is being diverted nowa- days to the left bank from a bailey bridge. In fact in the floods which devastated the valley of Kullu somewhere in the year 1995-96, many bridges over river Beas were destroyed and one of them happens to be the one which was on river Beas at Bhuntar connecting Buntar with Manikaran. It cannot be termed anything else but apathy of the Government that for the last almost two decades, no permanent bridge has been constructed at Bhuntar and the entire traffic has to go through a bailey bridge, which is the first point of congestion leading to long traffic blockades. It is not uncommon to be struck at this point during peak tourist season for hours together. The traffic thereafter moves on the left bank and after crossing Akhara bazaar of Kullu town, there is a bridge built over river Beas, which thereafter diverts the traffic to the right bank and from this point onwards, the traffic moves to Manali town on the right bank.

6. When one reaches the town Manali, just before the Mall Road of the town, which is otherwise closed for traffic, there is a diversion towards the right hand side, which takes the traffic either to places in Manali town like Hiddimba temple, Log huts etc. or by using this road, traffic proceeds towards Rohtang pass and Lahul Spitti. The area of Manali town which has come upon the left side of river Beas is also accessible by using this road. Across river Beas at this point also, there are no permanent bridges and there are two bailey bridges, which are used

by the traffic and this entire area is a point of permanent congestion.

7. On record, there is a communication dated 28.08.2014 (at page-23 of the paper-book) addressed by Superintendent of Police, Kullu to Deputy Commissioner, Kullu on the subject "Long term vision plan to regulate and manage traffic in Kullu, Manali to Rohtang, Kasol and Manikaran." The long term measures and suggestions which find mention in this communication are quoted hereinbelow: "1. Identification of land for developing parking sites.

2. Creation of pedestrian paths alongwith roads passing through district head quarter and tourist places.

3. Creation of over head bridges for crossing crowded areas in the city/towns.

4. In case of scarcity of space multistoried parking need to be created in the towns. 5. Widening of bridges and narrow roads passing through this district head quarter and tourist places.

6. Immediate removal of encroachments from the road side.

7. Identification of proper places for the stoppage of buses etc. on the highway. Special sites need to be earmarked and developed for the same.

8. Strict enforcement of MC Act and Rules by police as well as other agencies responsible for the implementation of MC Act and Rules.

9. Provision to install high powered CCTV night vision cameras at places mentioned above also need to be made to check violations of traffic rules etc.

10. In order to ensure the effective performance of Police/HHG, officials deployed for the regulation of traffic, the area in question need to be divided into various sectors so as to fix up the responsibility of regulating traffic of concerned official in the area.

11. It has generally been observed that thousands of vehicles are plying on the road from Manali to Rohtang everyday during tourist season and lot of traffic jams are witnesses on the road, which also need to be widened with the development of parking places at all places of tourist interest.

12. Presently three to four reserves of police personnel are being used to regulate traffic during tourist season from Manali to Rohtang, which has also been found insufficient during peak tourist season to regulate traffic effectively in the area due to narrow roads and non-availability of sufficient/adequate parking places. A separate proposal for the creation of staff to be deployed on the high way from Manali to Rohtang pass is being sent to PHQ.

13. Special drive will be organized to check idle parking and remove all abandoned vehicles found on the road side with the help of crane etc."

8. Various status reports stand filed on record of the case in compliance to various orders passed in this regard by this Court from time to time. There is

also a response filed to the petition on behalf of respondent No. 8 (page No. 47 of the paper-book), in which the following has been stated with regard to Manali town: "5. Manali Town itself:

That to remove the traffic congestion in Manali town, construction of 1.7. km bypass road has been envisaged and incorporated in 37 km. Kullu Manali two laned road with paved shoulders with realignments at congested areas proposal. With the construction of the Manali bye-pass road, Army vehicles, heavy vehicles and other vehicles proceeding to Lahaul-Sapiti, Leh etc. will go through this bypass without disturbing Manali town, hence easing out traffic congestion in Manali town itself.

The Kullu Manali project stands approved by the Ministry of Road Transport and Highway. Financial bids have also been received however the same have not been opened due to non-availability of 90% encumbrances free land and Forest clearance from Ministry of Environment and Forest for transfer of forest land. Special attention is required from the State Govt. to expedite the redressal on this issue for early execution of project."

9. Respondents have also placed on record various notifications issued from time to time for the purpose of regulating the flow of traffic in Manali town and one of such notifications is at page 73 of the paper-book dated 17.06.2014.

10. An affidavit filed by the Superintendent of Police Kullu, dated 06.07.2016 (at page-113 of the paper-book) demonstrates that for the purpose of traffic management, 2 ASIs., 3 HCs., 20 HHCs./Constables, 65 HHCs. alongwith one Recovery Van, Four Motorcycles and 25 Hand Wireless sets and one VHF set of 20 watt were deployed in Manali town to ensure free flow of vehicular traffic. This affidavit also discloses that 1 ASI, 3 HCs., 21 Constables and 25 HHGs. were deployed in between Manali and Rohtang pass to comply with the directions of National Green Tribunal as well as for the purpose of regulating vehicular traffic in that area and in addition one patrolling Van consisting of 1 SI/ASI was regularly deputed.

11. There is also on record a status report filed on behalf of respondents No. 5 to 7 dated 23rd February, 2017 in compliance to directions passed by this Court on 21.12.2016, relevant extract of which is quoted hereinbelow: "4. That the work of execution of two bridges i.e. construction on Bridge across river Beas at Km. 310/00 on NH 21 at Manali on EPC Mode, and construction of 33.60 mtrs. Span RCC box cell bridge over river Beas at Km. 260/280 (Bhunter) on NH-21 (New NH03) are in progress on NH-21. The latest status of these two Bridges from Km 260/0 to 310/0 on NH 21 (Now NH-03) is as under:

(a) Manali Bridge:

Administrative Approval, Technical and Financial sanction for construction of 4-Lane Bridge across river Beas Manali was accorded by the MORT &H New Delhi letter No. RW-NH- 1014/HP(1)/2014-S &R(B) dated 19.09.2014 Job No. 12014/

HP(1) 14-001-S&R(B) for Rs.1188.29 lacs. The letter of acceptance was issued vide Chief Engineer (NH) letter No. PW- CE-NH-21 Manali Bridge/2015-5470-75 dated 14. 10.2015 to M/s. Welkin India Inc. Near PWD Rest House, GT Road, Moga-142001, Punjab for a contract price of Rs.9,40,00,000/- which is 4.56% above the amount put to tender. The notice to proceed with the execution of the work issued vide Executive Engineer National Highway Division HPPWD, Pandoh letter NO. PNH/AB/Tender Manali Bridge/2015-8349-59 dated 18.11.2015. The time period of completion of work is 24 months. The temporary diversion of the vehicular traffic has been completed on 27.07.2016. The contractor and Authority Engineer i.e. M/S Feedback Infra-Gurgaon have mobilized to the site of work. The Authority Engineer has requested the Contractor to submit the General Arrangement Drawing showing span arrangement and alignment as per contract agreement drawings. The Contractor has submitted General Arrangement Drawing to Authority Engineer. The Authority Engineer has raised certain observations on 03.01.2017 and 06.01.2017 and the contractor has replied to the observations on 10.01.2017. Till date no work has been done by the Contractor. Superintending Engineer, NH Circle, HPPWD, Shahpur has inspected work on 17th December, 2016 and directed the Contractor to start the work. Despite of the Contractor assurance to start the work practically no work has been done by the Contractor till date. This bridge will reduce the traffic congestion in Manali Town.

(b) Bhunter Bridge: Administrative Approval, Technical and Financial sanction for construction of this bridge has been accorded by Ministry vide letter No.RW/NH-12014/1014/HP/2015/NH-1 dated 09.12.2015. Job No. NH-21 (New-03)-HP-2015-16-420 for Rs.143.72 lacs. The letter of acceptance was issued vide Chief Engineer (NH) HPPWD, Shimla letter No. PW-CE-NH-21 CTR-Bhunter Bridge/2016-3319-24 dated 16.07.2016 to M/s. Gorsl Const. Pvt. Ltd. Village Takoli PO Panarsa, Sub Tehsil Aut, Distt. Mandi, H.P. for a contract price of Rs.1,23,51,129/-. The notice to proceed with the work has been issued vide Executive Engineer (NH) Division HPPWD, Pandoh letter No. PNH/AB/Tender Bhunter Bridge/2016-5064-73 dated 19.08.2016. The time period for completion of the work is one year. The contractor has been requested by the Executive Engineer NH Division HPPWD, Pandoh letter No. 9943-45 dated 15.11.2016 to start execution of bridge immediately. The contractor has requested for closure of all type of traffic on this bridge for 10 months for construction and completion of whole bridge structure. The Contractor has intimated that the new bridge will not be constructed without dismantling existing Bailey bridge. The Superintending Engineer, National Highway Circle HPPWD Shahpur inspected the bridge site on 17th December, 2016 and decided to re-launch 130 feet span new double lane Bailey bridge to avoid complete closure of traffic. Hence, Executive Engineer National Highway Division HPPWD, Pandoh requested the Executive Engineer, Mechanical Division HPPWD, Kullu to prepare the estimate of re-launching of old bailey bridge by providing new-relaunching 130 feet span double lane bailey bridge. It is further respectfully submitted that estimate has been

framed amounting to Rs.171,78,200/- by Executive Engineer, Mechanical Division HPPWD Kullu. BY constructing this 130 feet TDR bailey bridge suitable for IRC class loading will cater to the demand of the commutes and to avoid any mishap on this bridge. It is humbly submitted that after construction of this bridge traffic congestion at Bhunter will be minimized. It is further respectively submitted that National Highway Authority of India shall be constructing four laning NH-21 (New NH-03) from Nerchowk to Kullu and two laning from Kullu to Manali. It is, therefore, respectfully prayed that this status report may kindly be taken on record and orders as deemed fit and proper may kindly be passed in the interest of justice."

12. A perusal of the said status report demonstrates that practically till date, no work has been commenced by the Contractors concerned for construction of bridges for one reason or other over river Beas at Bhuntar and Manali, which bridges in fact were washed away almost two decades back.

13. The tone and tenor of various status reports on record and various affidavits filed by the respondent(s)-authorities also reflect that the construction of the said bridges is of utmost importance for the purpose of regulation of traffic, both for Kullu area as well as Manali town so as to check the congestion of traffic.

14. Besides this, need of the hour is also to implement the long term vision plan which was forwarded by Superintendent of Police, Kullu to the Deputy Commissioner, Kullu vide communication dated 28.08.2014. This long term vision plan has been suggested by an authority not less than the Superintendent of Police, Kullu, whose duty it is to enforce law and order in the District as well as to manage traffic. Many of the measures/suggestions which find mention in this long term vision plan can be redressed by the administration without any difficulty. Suggestions such like immediate removal of encroachments from the road side, identification of proper places for the stoppage of buses etc. on the highway, strict enforcement of M.V. Act and Rules by police as well as other agencies, provisions of installing high powered CCTV night vision cameras at places to check violations of traffic rules, division of areas in various sectors to ensure effective performance of police officials/officers and also to fix their responsibilities, proposal of creation of staff to be deployed on the highway from Manali to Rohtang pass, special drive to check idle parking and removal of all abandoned vehicles found on the road side with the help of crane etc. can be implemented and should be implemented by all the stakeholders forthwith.

15. The management of traffic management has many facets. Mere widening of roads or construction of new roads may not solve the issue per se. Traffic management includes many factors, like traffic control, which envisages measures of traffic flow, management of parking areas and removal of encroachments on roads etc. It has to be understood that driving through a traffic congested area is tedious and the same adversely affects the health of one and all. There is not only wastage of fuel and gasoline for moving automobiles, but it also pollutes the environment. Haphazard parking of vehicles,

encroachments on roads, absence of civic sense and lack of strict enforcement of traffic Rules, all lead to traffic congestion.

16. Articles 47 and 48-A of the Constitution of India inter alia confer upon the State the duty to raise the level of standard of living and to improve public health as well as protect and improve the environment and safeguard the forests etc. Better management of traffic in eco-fragile areas like District Kullu in general and the areas of Manali in particular, is also otherwise a Constitutional duty mandated upon the State.

17. Therefore, in view of the above discussion, we close this Public Interest Litigation at this stage by passing the following directions: A. All endeavour should be made to commence and complete the work of construction of bridges over river Beas at Bhuntar and Manali, reference of which finds mention in the status report filed on the affidavit of Chief Engineer (Mandi Zone), H.P. P.W.D., Mandi (H.P.) dated 23rd February, 2017, within a period of one year from today. Quarterly status report in this regard shall be filed regularly on the affidavit of respondent No. 5 in the Registry of this Court.

B. Long term vision plan be framed and implemented to regulate and manage traffic in District Kullu, Manali, Rohtang pass, Kasol and Manikaran as per the suggestions contemplated in communication dated 28.08.2014 addressed by Superintendent of Police, Kullu to the Deputy Commissioner, Kullu, within a period of six months from today.

C. All the stakeholders shall be involved in the formulation and implementation of the said long term vision plan. It is clarified that the said long term vision plan shall also encompass all such measures and suggestions which in addition may be required to regulate and manage traffic in District Kullu in particular and the town of Manali in general.

18. With these directions, this petition stands disposed of, so also miscellaneous applications, if any. No order as to costs. We place on record our appreciation for the valuable assistance rendered by Mr. K.D. Shreedhar, Senior Advocate as Amicus Curiae.