

(2021) 06 SHI CK 0049

In the High Court Of Himachal Pradesh

Case No : Civil Miscellaneous Petition No. 6302 Of 2021, CWPIl No. 23 Of 2015

Court On Its Own Motion

APPELLANT

Vs

State Of H.P. And Others

RESPONDENT

Date of Decision : 17-06-2021

Acts Referred:

Citation : (2021) 06 SHI CK 0049

Hon'ble Judges : Sureshwar Thakur, J;Sandeep Sharma, J

Bench : Division Bench

Advocate : Balram Sharma, Ashok Sharma, Adarsh Sharma

Final Decision : Disposed Of

Judgement

Sureshwar Thakur, J

1. This Court, through a verdict made on 26.11.2015, upon CWPIl No. 23 of 2015, had made, the hereinafter extracted hence preemptory directions, against the plying of vehicles, on sealed roads, except by the dignitaries, mentioned therein:

â??22. Accordingly, the permission for sealed roads is restricted only to Honâ??ble President of India, Honâ??ble Vice President of India,

Honâ??ble Prime Minister of India, Honâ??ble Governor of Himachal Pradesh, Honâ??ble Chief Minister of Himachal Pradesh, Honâ??ble

Chief Justice, Honâ??ble Speaker of Himachal Pradesh, State Legislative Assembly, General Officer Commanding of ARTRAC and his second-in-

Command by reading down sections 3 and 4 of the Act, pertaining to use of the sealed roads, in the larger public interest, public safety and

convenience.â??

2. The Union of India, for undertaking re-construction of Grand Hotel Complex,

which became engulfed in a fire, and, became hence gutted down,
accesses this Court to relax, the rigor of the afore embargo, imposed against the plying(s) of vehicles on sealed portions. Evidently, for carrying the construction material, for the relevant re-construction activity, at Grand Hotel, admittedly located in a core area/sealed area, the Union of India may face an immense difficulty, from the authority concerned, in receiving the appropriate permission.

3. Even though, the Union of India has approached the authority concerned, for obtaining the relevant permission, for plying vehicles, upon sealed road(s), hence carrying material, for facilitating, the, undertaking(s) of construction activity, at the afore site. However, the learned Advocate General, supported by Mr. B.R. Sharma, the Assistant Solicitor General of India and Mr. Adarsh Sharma, Advocate, submit that there is a possibility of an adverse order being, pronounced against the Union of India, by the authority concerned, upon, the afore endeavour, unless the rigor of the afore preemptory mandate made by this Court, in the afore extracted paragraph, is relaxed, as was done earlier, through an order made by this Court, on 3.9.2021, upon CMP No. 3679 of 2019, the relevant portion whereof is extracted hereinafter:

3. The department of Tourism has purchased a heritage property known as Bantony Castle and they have undertaken some renovation at the construction materials are to be taken through the road which has been declared as sealed road. The Government is unable to take construction materials through the said road on account of the prohibition imposed by this Court in a suo motu writ petition. Hence this application.

4. Access to property, is part and parcel of the right to property. If there is no access to a property and that too, a heritage building, when an attempt of renovation is taken, it will jeopardize the interest of the applicant. Therefore, this application is allowed.

4. Thereupon, for facilitating the completion of a very vital public project, and in the larger interest(s) of justice, and, for ensuring that public works undertaken, by the Union of India, for re-construction of the gutted down building, admittedly located in the vicinity of Bantony Castle, in respect whereof, an alike permission has been granted by this Court, this Court also deems it fit to direct the authority concerned, to, in consonance therewith,

for some specified and limited duration(s) of time, and only during night hours, permit the Union of India, through its agencies to ply vehicles, on sealed roads, hence carrying construction material, upto the relevant site, located in the vicinity of Bantony Castle.

5. In view of this, the present petition is disposed of.

Also, the pending application(s), if any, disposed of.