
(2018) 05 SHI CK 0091
In the High Court Of Himachal Pradesh
Case No : CWPII No.81 of 2018

Court on its own motion

APPELLANT

Vs

State of H.P. & Others

RESPONDENT

Date of Decision : 30-05-2018

Acts Referred:

Citation : (2018) 05 SHI CK 0091

Hon'ble Judges : SANDEEP SHARMA; SANJAY KAROL

Bench : Division Bench

Advocate : Lovneesh Kanwar, Ashok Sharma, Ranjan Sharma, Rita??Goswami, Adarsh Sharma, T.S. Chauhan

Judgement

Sandeep Sharma, J.

1. By way of letter petition, addressed to the Chief Justice of this Court, petitioner, who is a student and is a resident of village Dol, Tehsil Joginder

Nagar, District Mandi, highlighted the issue with regard to poor quality of work executed by the contractor while carrying out tarring/mettaling of

Gadyara-Dol-Chho road at Joginder Nagar, Mandi, H.P. Alongwith petition, letter petitioner also annexed news item published on 14th April, 2018 in a

daily Hindi newspaper, â??Punjab Kesariâ?, under caption, â??Tarring Ke 20 Din Baad Sadak Per Ugi Ghasâ?. Letter petitioner alleged that Public

Works Department (for short â??PWDâ??) had awarded work to Government Contractor; namely; Prem Pal in March, 2018 for tarring/mettaling of

road, referred hereinabove, but, interestingly, within a period of 15 days from the completion of aforesaid work done by respondent No.6, grass started

sprouting on tarred surface in some portion. Letter petitioner alleged that respondent No.6, while tarring/mettaling the road in question, failed to lay

proper layer of stone and grit before putting charcoal. She also alleged that workers engaged by respondent No.6 laid charcoal on the surface without removing dust/soil from the road, as a consequence of which, grass started sprouting within a period of 15 days of completion of work in question.

2. After having carefully perused averments contained in the letter petition as well as news item published in newspaper, this Court, while registering the letter petition as Public Interest Litigation, directed learned Additional Advocate General to ascertain the factual position and furnish the particulars of the contractor, who executed such work. Subsequently, this Court vide order dated 2.5.2018, impleaded the contractor; namely Prem Lal as party respondent No.6.

3. Superintending Engineer, Joginder Nagar Circle, HPPWD Joginder Nagar in his affidavit acknowledged the factum with regard to sprouting of

grass on the road in question on some stretches of road. Officer, referred hereinabove, further stated before this Court by way of affidavit that tarring

work was executed by respondent No.6 as per HPPWD specifications and work was completed successfully on 23.3.2018 under the supervision of

Junior Engineer, Neri Section Sub Division Lad Bharol. He further stated that one week after completion of work, site was inspected by Junior

Engineer, who had observed that grass started sprouting on tarred surface in some portion and accordingly directed contractor respondent No.6 to

rectify the defects. It has also been stated in the affidavit that department also inspected the site to find out the reasons of sprouting of grass on some

stretches on the road and came to the conclusion that the main reason of sprouting grass on the road was due to water logged area and having clayey

formation. As per Superintending Engineer, quality of work executed by respondent No.6 has been found to be good and well within prescribed limits.

It has further been stated in the affidavit that tarring process though was completed on 26.3.2018, but rainfall occurred on 28.3.2018, 6.4.2018,

7.4.2018 and 8.4.2018 and the rain water ponded in the existing water logged area, as a consequence of which, grass sprouted on tarred surface. As

per affidavit, department started the construction of Katcha side drain, but the local villagers of Dol, Gadyara and Chho did not allow the construction

of side drain, due to which the rain water remained ponded on the tarred surface and grass sprouted on tarred surface in the aforementioned

stretches, not on the entire length of this road. It has further been stated in the affidavit that whole tarred surface, including area where grass sprouted

is intact, without any pot holes, ruts and the traffic is plying smoothly without any inconvenience to the commuters.

4. Taking note of the fact that very poor quality of work was executed by respondent No.6 and no supervision was conducted by the authority

concerned, this Court, while directing private respondent No.6 to file affidavit, also called upon Executive Engineer, HPPWD Division Joginder Nagar

to remain present in the Court.

5. Today, during the proceedings of the case, Executive Engineer, HPPWD Division Joginder Nagar apprised this Court that defects noticed on the

aforesaid stretches have been rectified, as per direction issued by the Engineer-in-charge, and fresh tarring/mettaling has been done on the road as per

HPPWD specifications. Executive Engineer also invited our attention to the photographs to demonstrate that after having noticed defects, as have

been noticed hereinabove, respondent No.6-contractor was called upon to rectify the same, who has redone tarring/metalling work after laying proper

layer of stone and grit. Though this Court having perused affidavit filed by Superintending Engineer and private contractor respondent No.6, finds that

damage caused to the road in question has been cured by respondent No.6 by doing fresh tarring/mettaling work, but it is not understood that how

within a period of 15 days grass sprouted on mettalled/tarred road. Interestingly, department concerned, instead of taking action against erring

officers/officials, has made an attempt to justify their action by stating that work has been done by respondent No.6 as per specifications and there

was no defect in the same at the time of completion. Had the authorities concerned bothered to ensure proper laying of stone/grit before

tarring/mettaling, grass would not have sprouted on the road. Explanation rendered on record by the department for sprouting of grass is neither

plausible nor can be accepted because it is the duty of official/officer, who was supervising the work, to ensure that work of road is done strictly as

per specifications and not on the whims and fancies of the contractor.

6. Having taken note of the fact that defects have been cured by respondent No.6 on his own expenses, this Court sees no reason to keep the present

petition alive, but before parting, we wish to observe that the authorities

responsible for getting the work executed need to be more vigilant, cautious and responsible, so far as execution of work by private contractors is concerned, because public money cannot be allowed to be wasted. Secretary (PWD) to the Government of Himachal Pradesh as well as Engineer - in-Chief, HPPWD, Shimla are directed to issue necessary directions/guidelines to the officers/officials concerned, responsible for getting the work executed, to ensure quality of work to be executed by the private contractors and in case they fail to get the work done, as per specifications, they should be held personally liable and costs incurred on repair/damages should also be recovered from their salaries.

7. Necessary affidavit of compliance shall be filed by the aforesaid authorities i.e. Secretary(PWD) to the Government of Himachal Pradesh and

Engineer-in-Chief within a period of two weeks from the receipt of copy of the judgment in the Registry of this Court.

8. We fully appreciate initiative taken by letter petitioner, who, being a vigilant resident of the area, not only highlighted the poor quality of work done

by the contractor on the road in question, but also set up an example to other persons, who, while taking note of such irregularities and illegalities

committed by the government officers/officials, may approach the authorities so that appropriate action is taken against the erring officials/officers.

9. We also wish to place on record appreciation qua the efforts put in by Mr.Lovneesh Kanwar, Advocate, Amicus Curiae, who, on the instructions of

this Court, contacted letter petitioner and obtained necessary feed back.

10. Registry is directed to send a copy of this judgment to the Secretary (PWD) to the Government of Himachal Pradesh and Engineer-in-Chief,

HPPWD, Shimla for necessary action at their end.