

(2019) 09 SHI CK 0011
In the High Court Of Himachal Pradesh
Case No : CWPIl No. 268 Of 2017

Court On Its Own Motion

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 06-09-2019

Acts Referred:

Citation : (2019) 09 SHI CK 0011

Hon'ble Judges : V. Ramasubramanian, CJ;Anoop Chitkara, J

Bench : Division Bench

Advocate : Ankush Dass Sood, Arjun Lall, K.D. Shreedhar, Tanvi Chauhan, Ashok Sharma, J.K. Verma, Ranjan Sharma, Adarsh Sharma, Nand Lal Thakur, Shrawan Dogra, Bharat Thakur, Shreya Chauhan

Final Decision : Disposed Off

Judgement

V. Ramasubramanian, CJ

1. This Public Interest Litigation is an off root of another Public Interest Litigation of the year 2015, bearing CWPIl No.17 of 2015. In the said Public Interest Litigation CWPIl No.17 of 2015, this Court passed an order on 24.11.2017 taking note of the fact that the Ministry of Road Transport and Highways Government of India had accorded, in principle approval, for the declaration of 61 roads in the State of Himachal Pradesh as new National Highways. This Court recorded in its order dated 24.11.2017 that considering the importance of timely construction of new National Highways, this Court deemed it proper to supervise the progress made in the construction of the Highways. Taking note of the communication of the Central Government dated 14.09.2016, this Court directed on 24.11.2017 in CWPIl No.17 of 2015 that a separate PIL should be registered.

2. Subsequently another Public Interest Litigation in CWPIl No.212 of 2017 concerning the construction of National Highways covering a total length of about 750 Kms was taken up by the Court and the Registry was directed to register three separate public interest litigations, with respect to each of the three

different Highways, namely, Pinjore-Baddi-Nalagarh NH-21A, Shimla-Matour NH 88 and Pathankot-Mandi NH-20.

3. Accordingly, the above Public Interest Litigation in CWPIL No.268 of 2017 was separately registered for the purpose of addressing the issue of award of contracts for the preparation of detailed project reports. After the registration of the said PIL, several orders were passed from time to time. Some of the orders passed are extracted as follows:-

"(i) Order passed on 01.12.2017

"Mr. Anup Rattan, learned Additional Advocate General, under instructions, from Mr. B.K. Sharma, Chief Engineer, (NH), HP PWD, Shimla-1 has handed over the status report of finalization of consultants in preparation of DPRs which reads as under:-

"Status of finalization of consultant in preparation of DPRs of "In Principle" declared National Highways in the state of Himachal Pradesh.

Total in principle declared National Highways

69

Total number of roads in which the work of consultancy already awarded for preparation of feasibility study and DPR for National Highways upon approval of ministry (MORTH).

8

Seven already awarded and 8th case awarded to M/s Sowil India Ltd. on 29.11.2017

Total number of roads upon finalization of technical, financial and tender based estimate completed and sent to ministry (MORTH).

24 22 already sent and two cases sent to ministry on 29.11.2017

Total number of roads in which tenders called and are in its evaluation stage which are likely to be finalized and to be sent to Govt. of India by 5.12.2017

18

Tenders invited but yet to be finalized

9+3=12

Road to be constructed by other agency i.e. NHIDCL 4nos BRO 1nos Already constructed by HPRIDC 2nos

7

Total

69

Mr. Anup Rattan further states that work of preparation of DPR reports stands awarded to (1) M/s EXPLORER Consultancy Services Pvt. Ltd. Plot No.3, First Floor Sector 18 Serhaul Hurugrum Haryana 122001. India; (2) M/s WAPCOS Ltd., 7th Floor "Kailash", 26 Kasturba Gandhi Marg New Delhi 110001 India; (3) M/s Sowil Ltd., D-157, Sector-7, Noida 201301 India; (4) M/s RITES Ltd., RITES Bhawan 4th Floor-HW Plot No.1 Sector 29 Gurugram Haryana 122001; and (5) M/s STUP Consultations Pvt. Ltd. 1112, Vishal Tower, Distt. Centre Tankpuri, New Delhi 110058 India. As such, we implead them as party respondents No. 5 to 9. Service upon the aforesaid respondents be effected through respondent No.4.

Insofar as 24 cases which are pending consideration with respondent No.1 are concerned, Mr. Desh Raj Thakur learned counsel states that necessary action shall positively be taken within a period of one week. We clarify that if needful is not done within the above mentioned period, then Chief Engineer, Zone-II, Ministry of Road and Transport shall personally remain present in Court.

As far as 18 roads in which tenders are called for are concerned, Mr. Anup Rattan, under instructions, states that the same are in the stage of evaluation, which is likely to be finalized and sent to the Government of India by 5th December, 2017.

We direct the State to do the needful by 5th December, 2017 positively. Mr. Desh Raj Thakur states that cases so received from the State shall positively be processed within two weeks thereafter. Mr. Anup Rattan states that cases shall be sent through a special messenger. We direct respondent No.4 to file his personal affidavit indicating the names of successful bidders.

Insofar as tenders of 12 roads are concerned, Mr. Anup Rattan informs us that as far as 9 out of 12 roads are concerned, process qua finalization of tenders also stand taken and the same shall be completed within 30 days and thereafter the cases shall be sent to respondent No.1 for approval. We direct respondent-State to positively do the needful within a period of 30 days from today. Mr. Desh Raj Thakur states that cases so received from the State shall positively be processed within two weeks thereafter.

With regard to remaining three cases, Mr. Anup Rattan informs us that the entire process shall be completed within a period of 45 days from the date of issuance of notice inviting tender and thereafter the cases shall be sent to respondent No.1 for approval. We direct the State to forthwith issue notice qua inviting tenders and complete the entire process within 45 days thereafter. Mr. Desh Raj Thakur states that cases so received from the State shall positively be processed within two weeks thereafter.

We request Mr. Ankus Dass Sood, learned Senior Counsel and Mr. Arjun K. Lall, Advocate to assist the Court as Amicus Curiae."

(ii) Order passed on 11.12.2017.

Compliance affidavits on behalf of respondents No.2 to 4 & are taken on record.

2. We clarify that the indulgence shown by this Court is only as a facilitator and the lis, which is definitely not adversarial in nature, is being pursued only for the timely completion of projects in question. Needless to say, parties undertaking the execution of work shall be governed by the agreements/arrangements entered into between the respondent company and the stakeholders. This Court would definitely welcome suggestions from the private respondents, as to how best the agreement can be got executed at the earliest and this we say so for the larger public interest of earlier completion of roads is involved.

3. Further, we are of the view that while preparing DPRs of the national highways, it would be open for the consultants to consider all attending factors, including geographical conditions and topographical locations. We are clear that in a hilly State, particularly where the soil strata is not consistent, perhaps roads may have to be constructed by digging tunnels through the mountains, for not only it may shorten the distance, but save the environment in terms of soil erosion and landslides. Further, the distance would be reduced considerably. Also human potential would be optimized to the fullest. Constructing roads by digging tunnels is not a concept, which is alien to the State of Himachal Pradesh. In fact, off late, it is put to use at three places i.e. Rohtang; Barog; and Swarghat. Perhaps it would also save cost of acquisition of land and reduce cost of the project.

4. Another factor which must be kept in mind is the construction of duct for common utility services such as laying of optical fiber lines/telecom cables/electricity cables, IPH and sewerage lines etc. This would not only prevent repeated digging of the roads, but perhaps generate income from the service providers, using the same.

5. Yet another factor, which must be kept in mind, would be providing of layways and civic amenities for the commuters.

6. We clarify that these are all guidelines to be kept in mind for preparation of DPRs.

(iii) Order passed on 4.1.2018

Status report filed by Mr. Dalip Singh Chauhan, Superintending Engineer, National Highway, is pleasingly satisfactory. We place on record our appreciation for the efforts put in by the said Officer in processing the files and pursuing the matter with the authorities for preparation of DPRs. Equally, we appreciate the efforts put in by Mr. Rajesh Sharma, learned Assistant Solicitor General of India and Mr. Desh Raj Thakur, learned Central Government Standing Counsel, who have been relentlessly pursuing the matter with the appropriate authorities for grant of necessary sanction/approvals.

2. Noticeably, out of 62 roads, tenders for preparation of DPRs qua following 05 roads already stand sanctioned and the work is in progress. Relevant extract of status report is quoted herein below:-

Sr. No

Name of Road

Name of consultant

Length (KM)

Date of issue of Letter of Acceptance by Chief Engineer (NH)

Status

1.

Dhaneta - Barsar - Shahtalai -Berthin

XPLORER Consultancy Services Pvt. Ltd., Plot No.3, 1st Floor Sarhaul, Sector-18
Gurgaon-122001, Haryana

61

12.9.2017

Letter to commence the work issued on 6.10.2017 and work in progress

5.

Shimla(D halli) -

Tattapani -Churag-

Rohanda -

Sundern Agar

SOWIL LIMITED,

D-157, Sector 7

Noida-201301,

India

180.000

10.10.2017

Letter to commence the work issued on 3.1.2018 and work in progress

6

Salhech-Chandol-Habbon-ajgarh-Baddu- Sahib-Bagthan-Banethi

rites Ltd 4th Floor, Highway Division Plot No.1, Sector-29 Gurgaon-122201

127.3 00

19.9.2017

Letter to commence the work issued on 12.12.2017 and work in progress.

7

Sanaura (NH)- Rajgarh-Nohradhar- Haripurdhar-Rohnahat-Jamali on NH707

RITES Ltd 4th Floor, Highway Division Plot No.1, Sector-29 Gurgaon-122201

114.000

19.09.2017

Letter to commence the work issued on 12.12.2017 and work in progress. 1

8

Sainj(NH705)- Deha-Chopal-Nerwa-Feduspul (NH)

STUP Constants Pvt. Ltd. 11/2, Vishal tower, Distt. Center Janakpuri, New Delhi 110058

90.000

14.9.2017

Letter to commence the work issued on 15.12.2017 and work in progress.

3. We notice that qua following three roads the process for confirming the bank guarantees/signing of bank agreements is in progress and as we understand, the same is likely to be completed within a period of one week, hopefully within fortnight, the successful bidders shall commence the work for preparation of DPRs. Relevant extract is reproduced herein below:-

Sr. No

Name of Road

Most preferred bidder/consultant

Length (KM)

Status

1

Shimla (Taradevi)- Kunihar-RamsherNalagarh-Dharowala (HP)-Ghanauli on NH-205

M/s WAPCOS Limited, 5th Floor, "Kailash Building", 26, Kasturba Gandhi Marg, New Delhi 110001

102.350

Tender based estimates are under scrutiny in MORTH, New Delhi.

2

Rohru-ChirgaonTikri-LarrotChanshalDodrakawar

96.000

3

Chhaila on NH-705 Sainj OachghatSarahan on NH907A

108.000

4. Insofar as following 24 roads are concerned, we notice that necessary sanction from the Central Government already stands obtained and thereafter the process for negotiations/finalization of tenders/completion of formalities/ signing of agreements by the successful bidders shall be completed on or before 31st January, 2018. We expect the successful bidders to immediately commence the work with the signing of the agreements. Relevant extracted is reproduced herein below:-

Sr. No

Name of Road

Most preferred bidder/cons ultant

Length (KM)

Status

1

Junction with NH-154 at Dramman-Sihunta-Chowari-Jot-Chamba-Koti-Tissa-Killar

M/s PIDC Private Limited, B-7, Sector-64, Noida201301, India

271

Letters have been written to Consultants on 1.1.2018 to attend the negotiations before 15.1.2018. Letter of award shall be issued after successful completion of negotiations

2.

Jogindernagar to Bareru to Dharmanto Kunkatarto

Kotli

M/s WAAPCOS Limited, 5th Floor, "Kailash Building", 26, Kasturba Gandhi Marg, New Delhi 110001

44

3.

Declaration of PalampurDharamshala road via Nagri road as new National

Highway

M/s WAAPCOS Limited, 5th Floor, "Kailash Building", 26, Kasturba Gandhi Marg, New Delhi 110001

35.7

Letters have been written to Consultants on 1.1.2018 to attend the negotiations before 15.1.2018. Letter of award shall be issued after successful completion of negotiations

4

Dadour-Chailchowk- JanehliChhatriRanbagNagan- (including Tunnel)

M/s YONGMA Engineering Co. Limited, Unit 301, 302 Time Centre, Sector-54 Gurgaon, Haryana 122003

111

5.

ManupulGaunaBasaralDhanetaTiper-FahalGaloreBudhawin Chowk NaltiHamirpur (Junction of Hamirpur Bye-pass)

M/s WAAPCOS Limited, 5th Floor, "Kailash Building", 26, Kasturba Gandhi Marg, New Delhi 110001

50.5

6.

Hamirpur (Mattan Sidh) DosarkaLambloo TarakwadiBhoranjJahoo

M/s WAAPCOS Limited, 5th Floor, "Kailash Building", 26, Kasturba Gandhi Marg, New Delhi 110001

34

7.

Nagni-Pudwa0PanharKhundiyanJawalamukhi road

M/s YONGMA Engineering Co. Limited, Unit 301, 302 Time Centre, Sector-54 Gurgaon, Haryana 122003

34.2

8.

Ranital to Masroor Lunj32 Meel via Kuther Tripal Bhatar Bassa Lunsu Dhar road km 0/0 to 53/500 including bridge over Baner khad

M/s YONGMA Engineering Co. Limited, Unit 301, 302 Time Centre, Sector-54 Gurgaon, Haryana 122003

54.2

9.

KalohaPragpurDhaliaraDada Siba Sansarpur Terrace road

M/s YONGMA Engineering Co. Limited, Unit 301, 302 Time Centre, Sector-54
Gurgaon, Haryana

122003

60.9

10.

BhagerPanolBerthinGhoridhabiriMaharalBijhariSalooniGaloreKangu-Lalari
(Bhathqa)

M/s WAAPCOS Limited, 5th Floor, "Kailash Building", 26, Kasturba Gandhi Marg,
New Delhi 110001

71.2

11.

Didwin TikkarMahal BhoranjChandruhi Tatahar (Sarkaghat)

M/s WAAPCOS Limited, 5th Floor, "Kailash Building", 26, Kasturba Gandhi Marg,
New Delhi 110001

28.8

12.

HamirpurSujanpurAlampurPalampur

M/s WAAPCOS Limited, 5th Floor, "Kailash Building", 26, Kasturba Gandhi Marg,
New Delhi 110001

60

13.

Junction with NH-303 at JawallamukhiDehra-JwaliRaja-KaTalab-Jasure

M/s WAAPCOS Limited, 5th Floor, "Kailash Building", 26, Kasturba Gandhi Marg,
New Delhi

110001

09

14.

Sataun (NH707)- RenukaDadahuJamtaDosarka (NH907A)

M/s WAAPCOS Limited, 5th Floor, "Kailash Building", 26, Kasturba Gandhi Marg,

New Delhi 110001

56.000

Letters have been written to Consultants on 1.1.2018 to attend the negotiations before 15.1.2018. Letter of award shall be issued after successful completion of negotiations.

15.

HaripurdharSangrahRenukaTrimti-BailyaDholakuan

M/s WAAPCOS Limited, 5th Floor, "Kailash Building", 26, Kasturba Gandhi Marg, New Delhi 110001

79.000

16.

KandaghatSadhupulChail-Kufri; (17) Sunni to Lührion left bank

M/s WAAPCOS Limited, 5th Floor, "Kailash Building", 26, Kasturba Gandhi Marg, New Delhi 110001

57.000

17.

Sunni to Lührion left bank

M/s YONGMA Engineering Co. Limited, Unit 301, 302 Time Centre, Sector-54 Gurgaon, Haryana 122003

50.000

18.

HaripurdharKupaviTarahanSarahanChopal

M/s YONGMA Engineering Co. Limited, Unit 301, 302 Time Centre, Sector-54 Gurgaon, Haryana 122003

67.000

19.

KofataJakhanaJong-TuniaHaripur

M/s YONGMA Engineering Co. Limited, Unit 301, 302 Time Centre, Sector-54 Gurgaon, Haryana 122003

29.750

20.

Solan to Oachghat

M/s WAAPCOS Limited, 5th Floor, "Kailash Building", 26, Kasturba Gandhi Marg, New Delhi 110001

10.000

21.

Solan- SubathuKainchi Mor

M/s WAAPCOS Limited, 5th Floor, "Kailash Building", 26, Kasturba Gandhi Marg, New Delhi 110001

23.000

22.

Kunihar to Domehar to Piplughat to Dhundan to Bharirighat

M/s WAAPCOS Limited, 5th Floor, "Kailash Building", 26, Kasturba Gandhi Marg, New Delhi 110001

33.000

23.

Nalagarh on NH-21A Dabhotta, Tibbi, DugriPated Nawagram, Androla, Uperla, Kashmirpurm Baruna, Bagheri, Khatiwala Maura on NH21

M/s WAAPCOS Limited, 5th Floor, "Kailash Building", 26, Kasturba Gandhi Marg, New Delhi 110001

35.000

24.

Darla Mod (Navgaon) to Berri road

M/s WAAPCOS Limited, 5th Floor, "Kailash Building", 26, Kasturba Gandhi Marg, New Delhi 110001

37.000

5. With respect to following 10 roads (wrongly mentioned as 11) are concerned, we understand that the Ministry of MORTH, New Delhi has already accorded sanction, but, however, formal communication has yet not been received by the State. Learned Assistant Solicitor General of India states that the matter shall be expedited and he shall personally ensure that such sanctions are handed over to Sh. J.K. Verma, learned Dy. Advocate General, within a period of one week from today. Relevant extract is reproduced hereinbelow:-

Sr. No

Name of Road

Most preferred bidder/consultant

Length (KM)

Status

1

Sundernagar-ChaiDohara-Tiflaghat-Palasi

M/s WAAPCO S Limited, 5 th Floor, "Kailash Building", 26, Kasturba Gandhi Marg, New Delhi 110001

42

Sanction Letters in respect of these 11 roads not yet received from MORTH, New Delhi

2.

Salapad to Harnda to to Kasol to Tatapani on left bank

M/s WAAPCO S Limited, 5 th Floor, "Kailash Building", 26, Kasturba Gandhi Marg, New Delhi 110001

64

4

Ajouli Santokhgarh Una Lower Lalsingi upto Swan Bridge

MARC TECHNOC RATS Pvt. Ltd. Mark House, Sector6-7 Dividing Road opposite Devi Lal Park, Bahadurga r, Haryana

22.2

5

Bangana to Jawalaji via Shantla-Tutroo-PeerSaluhi-ChamukhaKaleshwar-Madhadev

MARC TECHNOC RATS Pvt. Ltd. Mark House, Sector6-7 Dividing Road opposite Devi Lal Park, Bahadurga r, Haryana

39

6.

Thapna (Four lane junction)-Baghchhal (Babkhal) MarotanJewin-Kalot-Bharoli Kalan-Gharan Shah Talai (including Bridge at Babkhal over Satluj River)

M/s Technocrat s Advisory 1492, 1st Floor, Street No.05 Wajir Nagar, Kotla Mubarkarp ur New Delhi 110003

42

7

Bassi (On Navgaon Beari Road) JabbalRani Kotla- markand (Construction of Tunnel near Bandla Dhar) connecting Bilaspur) Balh Bhulana-Beri Darolan (Construction of bridge connecting Kiratpur-Ner Chowk) Expressway)

M/s Technocrat s Advisory 1492, 1st Floor, Street No.05 Wajir Nagar, Kotla Mubarkarp ur New Delhi 110003

22

8.

Kanchimore-Shree Naina Devi-Bhakra

M/s Technocrat s Advisory 1492, 1st Floor, Street No.05 Wajir Nagar, Kotla Mubarkarp ur New Delhi 110003

50

9.

Nadaun-Tira SujanpurSandhol-KandapattanJogindernagar junction with NH-154

M/s WAAPCO S Limited, 5th Floor, "Kailash Building", 26, Kasturba Gandhi Marg, New Delhi 110001

127.3

10.

Basoli on NH-503 to Biru-Thana KalanBangana-Nadaun on NH-3

M/s Technocrat s Advisory 1492, 1st Floor, Street No.05 Wajir Nagar, Kotla Mubarkarp ur New Delhi 110003

65

11

Bharwain-ChintpurniJorbar-Pucca TialaSansarpur Terrace.

M/s Technocrat s Advisory 1492, 1st Floor, Street No.05 Wajir Nagar, Kotla Mubarkarp ur New Delhi 110003

88

6. Mr. Dalip Singh Chauhan, Superintending Engineer states that process of negotiation shall be expedited and endeavour shall be made to have the works awarded on or before 15.2.2018.

7. Insofar as the following 03 roads are concerned, the matter is pending consideration with the appropriate authority, i.e., MORTH, New Delhi. Learned Assistant Solicitor General of India states that process shall be completed in terms of our earlier order dated 1.12.2017. Relevant extract is reproduced hereinbelow:-

Sr. No

Name of Road

Most preferred bidder/consultant

Length (KM)

Status

1

Shimla (Taradevi)- KuniharRamsehrNalgarhDharowla(HP) - Ghanauli on NH-205

M/s WAAPCOS Limited, 5th Floor, "Kailash Building", 26, Kasturba Gandhi Marg, New Delhi 110001

102.350

Tender based estimates are under scrutiny in MORTH, New Delhi

2

RohruChirgaon-TikriLarrotChanshalDodrakawar

M/s WAAPCOS Limited, 5th Floor, "Kailash Building", 26, Kasturba Gandhi Marg, New Delhi 110001

96.000

3

Chhaila on NH- 705 SainjOachhghatSarahan on NH907A

Sterling Indo Tech Consultants Pvt Ltd. 601, Sunny Mart, New Aatish Market, Mansarovar Jaipur, Rajasthan, India.

108.000

8. With respect to remaining 16 roads, which as per the affidavit are under technical evaluation? Mr. Chauhan further states that with the receipt of the same, all the cases shall be evaluated, processed and forwarded to MORTH, New Delhi on or before 20.2.2018, in terms of our earlier order dated 1.12.2017.

9. List on 12.1.2018, before which date, supplementary affidavit of the latest status be filed."

(iv) Order passed on 12.01.2018.

This is in continuation of our order, dated 4th January, 2018, pursuant to which, status report stands filed by the Superintending Engineer, National Highway Division, HPPWD, US Club, Shimla. As per the same, following is the status with regard to 62 National Highways in relation to which DPRs. are required to be prepared:

Sr. No.

Progress

8 Roads

Work already stands allotted to the Consultants and is likely to be completed within a period of eight months from the date of allotment.

24 Roads

Negotiation is under progress and work is to be awarded on or before 31st January, 2018.

11 Roads

Sanction stands received from MORTH and the process for consultation/ negotiation and finalization of tender is under progress and is likely to be completed on or before 15th February, 2018.

3 Roads

The matter is yet pending with MORTH

Learned Assistant Solicitor General states that the case shall be processed and approved, rather affirmatively. Time schedule shall be adhered to.

Sr. No.

Roads

Progress

(i)

16 Roads

Technical evaluation is complete

(ii)

12 Roads

Technical evaluation is complete

Cases shall be forwarded to MORTH on or before 20th February, 2018. MORTH shall deal with the same in terms of our order, dated 01.12.2017 and thereafter time schedule prescribed therein shall be adhered to.

Sr. No.

Roads

Progress

(iii)

2 Roads

Technical bids are to be opened before 15th January, 2018 and shall be sent to MORTH on or before 28th February, 2018.

Time schedule shall be adhered to.

(iv)

2 Roads

There appears to be overlapping and the matter is under examination with the road alignment technical committee. Technical bid will be opened on 13th February, 2018, whereafter the time schedule already fixed shall be adhered to.

Let fresh status report shall be filed before the next date. List on 24th January, 2018 before the learned Vacation Judge."

(v) Order passed on 13.03.2018.

As per information supplied by Mr. Ranjan Sharma, learned Additional Advocate General, tenders for packages No. 26 and 33 stand opened on 07.03.2018, whereas tenders for packages No. 31 and 32 stand opened on 12.03.2018. We direct that the entire process post opening of the said tenders shall be completed within a period of 15 days from today and thereafter, immediately the cases shall be sent to respondent No. 1 for approval. As already directed, Central Government shall immediately process the said files and intimate its decision to the State within a period of 15 days from the date of receipt of the said files.

As far as package No. 30 is concerned, which as per information made available by the learned Additional Advocate General is to be opened on 28.03.2018, we direct that the entire process post opening of the same shall also be completed within a period of 15 days from the date of opening of tender and thereafter, file shall be sent to the Central Government forthwith, who shall convey its decision to the State within a period of 15 days from the date of receipt of such file. On the next date of hearing, the Chief Engineer, National Highway (HPPWD), Shimla shall also apprise this Court about the status of seven roads, which are reflected in the order passed by this Court on 01.12.2017, i.e. roads which were to be constructed by other agencies i.e. four roads by NHIDCL, one road by BRO and two roads which stand constructed by HPRIDC. Compliance report be filed on or before 20th of March, 2018.

List on 20th of March, 2018."

(vi) Order passed on 17.04.2018.

On 14.9.2016, Ministry of Road Transport and Highways, Government of India had granted in principle approval for construction of 69 roads in the State of Himachal Pradesh for which Detailed Project Reports (DPRs) were to be prepared and submitted to the Ministry of Road Transport and Highways, Government of India.

2. Noticing that no action was taken by the State, on 1.12.2017, this Court issued notices with respect to 62 roads in relation to which action was to be taken by the National Highway Authority of India/ Ministry of Road Transport and Highways, Government of India / State of Himachal Pradesh.

3. Happily, all the said authorities had taken action for preparing the DPRs. However, with regard to remaining 7 roads, we had specifically not issued any direction hoping that the Agencies involved in the preparation of the DPRs, most of them being Defence Organizations, would take appropriate action. It was only in the month of March, 2018, when we found that no adequate action was taken by the State Agencies, on 13.3.2018, this Court issued certain directions with respect to these 7 roads.

4. On 9.4.2018, we had held discussion with Mr. Abhilash, Engineer Liaison Officer, Ministry of Road and Transport, Government of India, and were assured that appropriate action for preparation of DPRs shall be taken. Regretfully, we find that no proper information is forthcoming qua these roads and more specifically from the National Highways and Infrastructure Development Corporation Ltd. (NHIDCL).

5. Under these circumstances, we implead the National Highways and Infrastructure Development Corporation Ltd. (NHIDCL), through its Managing Director and Border Road Organization through Director General (Military Operations), as party respondents No. 10 and 11 respectively in the array of respondents. Registry to carryout necessary correction in the memo of parties.

6. Mr. Rajesh Kumar Sharma, learned Assistant Solicitor General of India, waives notice on behalf of the newly arrayed respondents.

7. We direct the Managing Director of the National Highways and Infrastructure Development Corporation Ltd. (NHIDCL), and the Director General (Military Operations) of Border Road Organization to forthwith take appropriate action for ensuring that all the formalities with respect to these 7 roads, be completed at the earliest and the papers reach the office of Ministry of Road Transport and Highways, Government of India (MORTH), latest within two weeks from today and wherever it is not possible to do so, they shall explain, by way of an affidavit the difficulties/obstacles coming in their way.

List on 7th May, 2018"

(vii) Order passed on 07.05.2018.

Status report has been filed by the Chief Engineer, National Highway, HP PWD, as also on behalf of General Manager (Project), National Highways and Infrastructure Development Corporation Ltd. (NHIDCL).

A perusal of the report filed by the General Manager (Project), NHIDCL demonstrates that draft DPRs. pertaining to following roads, i.e. Hathithan (NH-21)-Manikaran-Pulga, Taklesh-Sarahan-Jeori and Chandigarh-Karoran-Tanda-

Prempura-Gariran-Paploha-Bar-Shilukhurd-Jangesh-Kasauli-Dharampur (on NH-5) stand submitted with NHIDCL and after going through all codal formalities, said draft DPRs shall be forwarded to MORTH by 30th June, 2018.

Learned Senior Counsel has also apprised the Court that process for preparation of land acquisition plan already stands initiated alongwith steps to obtain necessary forest clearances, as may be required.

We direct that necessary permissions under the Forest Conservation Act be granted, as also preparation of land acquisition plan be completed on or before 30th June, 2018.

Mr. Ranjan Sharma, learned Additional Advocate General apprised this Court that with regard to following roads, i.e. Ranital on NH 503-Kotla on NH 154, Ghumarwain-Jahu-Sarkaghat and Naina Devi-Swarghat, no order is required to be passed as these roads are already covered under 61 roads qua which DPRs are under preparation. This Court has been further apprised that as far as formal declaration of these roads as National Highways is concerned, the same is to be done by MORTH. Mr. Rajesh Sharma, learned Assistant Solicitor General of India submits that necessary action in this regard shall be taken within period of three weeks and necessary declarations shall be issued within the said period.

With regard to road Tandi to Sansari Nalla (with Border Roads) road, this Court has been informed that the tender has already been called for preparation of DPR by the Superintending Engineer, National Highway Circle Shahpur, HP PWD and technical bids will be opened on 30th May, 2018.

List on 16th May, 2018, before this Bench, on which date all the stakeholders shall submit latest status reports pertaining to all the 69 roads, as to what is the status of these roads as of now and what are the milestones which stand fixed by the stakeholders qua their respective completion.

This Court places on record its appreciation to the assistance rendered to the Court by the learned Amicus Curiae, as also by all the learned counsel representing the stakeholders."

(viii) Order passed on 21.08.2018.

Mr. Ranjan Sharma, learned Additional Advocate General has placed on record instructions dated 21.08.2018, relevant portion of which is reproduced as under:-

"The subject cited CWPIIL 268/2017 was listed before the Hon'ble High Court on 21.08.2018. Accordingly, as per the directions of Hon'ble Court, the following is hereby solemnly submitted:-

1. In context to the observations raised by MoRTH, New Delhi vide letter No. RW/NH-12014/1311/HP/2018/ Zone-II dated 09.08.2018 regarding sanction of Tender based estimates of 5 Nos. roads, the desired clarification/reply will be sent to MoRTH, New Delhi within a week time.

2. In response to 24 Nos Draft Alignment Reports, regarding which 11 Nos stands received in this office from concerned Superintending Engineer, the same will be submitted to MoRTH after scrutinizing & thereafter correcting the same by concerned field functionaries within 10 days time.

3. The remaining 13 Nos Draft Alignment Report out of 24 Nos Draft Alignment Report, would be submitted to MoRTH, New Delhi within 3 weeks time.

Therefore, in view of above submissions you are requested to apprise the Hon'ble Court about the same."

Learned Advocate General states that needful shall positively be done within the stipulated time. Let learned Amicus Curiae respond to the same by the next date of hearing.

List on 11.09.2018, as prayed for."

(ix) Order passed on 18.09.2018.

We request learned Advocate General to apprise Hon'ble Chief Minister, State of Himachal Pradesh, of the pendency of the present proceedings and the various orders passed by this Court in this case from 1st of December, 2017 onwards. Let Chief Secretary to the Government of Himachal Pradesh examine the matter; take up the issue of with the appropriate authority(s) and file his personal affidavit with regard to the stand taken by the various parties before this Court.

List on 25.09.2018."

(x) Order passed on 26.11.2018.

The Ministry of Road, Transport and Highways, Government of India, vide its memos dated 14th September, 2016, 10th April, 2017 and vide such subsequent letters informed the Government of Himachal Pradesh that 69 State Roads passing through the State of Himachal Pradesh or neighbouring States have been approved in principle to be declared as National Highways, though subject to the outcome of detailed project report preparation.

The instant sum motu proceedings have been initiated in public interest to find out the status/fate of those 69 approved National Highways in principle.

As per the latest instructions given by the Himachal Pradesh Public Works Department contained in its affidavit dated 24th November, 2018, out of those 69 highways, State Public Works Department is required to prepare DPRs in respect of 63 number of roads, whereas three DPRs are to be prepared by NHIDCL and one by Border Road Organization.

Be that as it may, one of the preliminary exercise to be done for preparation of DPRs is to decide the alignment of the road. We are informed that alignment exercise has been completed qua 51 roads and report has been submitted to Ministry of Road, Transport and Highways, Government of India, for approval. The said Ministry is directed to take appropriate decision and send a compliance

report by the next date of hearing. The HPPWD shall meanwhile complete the alignment exercise in respect of remaining proposed National Highways and forward the same to the Central Government. A fresh status report by the State Government shall also be filed.

As informed, the NHIDCL has already prepared DPRs in respect of three roads and submitted to the Ministry concerned for approval. The decision to be taken by the Ministry in respect of highways shall include those three highways also. The Border Road Organization will also submit its report about one proposed National Highway. Let the respective status reports by all Agencies be filed by the next date of hearing.

Post for hearing on 25th February, 2019."

(xi) Order passed on 25.02.2019.

Ministry of Road Transport and Highways has filed a status report-cum-affidavit, which is taken on record, copy whereof has also been given to the learned Amicus Curiae.

In the light of the averments made in para 15 of the status report filed today, we direct the Ministry of Road Transport and Highways to file an additional status report alongwith map depicting all the 69 State Highways which were statedly approved in principle for up-gradation as National Highways as well as the National Highways which have been decided to be widened/four-laned alongwith the time schedule in respect of each National Highway. The affidavit shall also give details of the amount spent on consultancy work and the consultants to whom such payments have been made.

Post the matter on 9th April, 2019.

(xii) Order passed on 09.04.2019 .

On 25th February, 2019, the Ministry of Road Transport and Highways was directed to file a status report along with a map depicting 69 State Highways which were approved in principle for up-gradation as National Highways. It was also directed that the amount spent on consultancy work and paid to the Consultants be also disclosed.

2. The status report filed in deference thereto comprises the map showing 69 stretches of State Highways approved in principle for up-gradation as National Highways with a length of 4281 km. It is further disclosed that 945 km National Highways in length are to be up-graded in the State of Himachal Pradesh during the "successive Annual Plans subject to inter-se priority and availability of funds". The details of the release of payments towards DPR consultancy work on State Highways have also been appended as Annexure-IV. It is further averred that the Ministry of Road Transport and Highways is "in process of framing the Revised Guidelines for declaration of State Roads as National Highways".

3. We find from Annexure-IV that an amount of over Rs. 24 crores has already

been released to the Consultants for preparation of DPRs and as per the details submitted separately, a sum of Rs. 163 crores is to be spent.

4. It goes without saying that hundreds of crores of rupees have been decided to be spent even without issuing the Revised Guidelines for declaring a State Highway as National Highway.

5. Going by the non-committal stand taken on behalf of the Ministry, it is possible that whatever amount has already been spent can go in waste, for it would be as per the Revised Guidelines only as to whether or not any State Road in the State of Himachal Pradesh would be formally declared as a National Highway.

6. Such a practice evolved by the Ministry cannot be appreciated. Firstly, there should have been a final decision as to which are the State Roads to be declared as National Highways and thereafter, the amount ought to have been spent on DPRs etc.

7. The fact of the matter is that as a result of the declaration in principle regarding 69 stretches of State Highways approved in principle for up-gradation as National Highways, all such roads are lying abandoned without any maintenance causing unexplainable inconvenience to the public at large. Not only this, the existing National Highways are also not being maintained at all.

8. On a query by the Court, learned Assistant Solicitor General of India, on instructions, informs that over Rs. 25 crores have been released to the HPPWD for the maintenance of National Highways, whereas at the spot, one does not find, as reported by various learned counsel, that even a single Highway has been satisfactorily maintained and is worth motorable.'

9. We, thus, direct the Ministry of Road Transport and Highways to furnish the details of the amount, National Highway wise, released for its maintenance as well as direct the Department of PWD, Government of Himachal Pradesh, to file a status report as to when and where the said amount has been spent.

10. In the larger public interest, we also direct the Ministry of Road Transport and Highways to release the requisite funds to the National Highways Wing of HPPWD for up-keep and maintenance of the National Highways. Similarly, the Ministry is directed to take a time-bound decision re : revision of the Guidelines for declaration of State Roads as National Highways and file a further status report alongwith such Revised Guidelines. The next status report shall also disclose as to how many roads in the State of Himachal Pradesh have been decided to be formally up-graded as National Highways in terms of such Revised Guidelines. A tentative time-line on study and assessment of the DPRs for up-gradation of the State Highways shall also be separately mentioned.

11. With a view to satisfy the conscious of the Court that over Rs. 24 crores have been spent for preparation of DPRs, let one of the DPRs, on illustrative basis, submitted by M/s Lion Engineering Consultants, Bhopal, to whom a sum of about Rs. three crores has been paid, be also produced.

12. Learned Assistant Solicitor General of India, on instructions, further informs that no further payments would be released to the Consultants without first finalizing the alignment of the State Roads to be up-graded as National Highways.

13. For the purpose of submitting details regarding the amount released by the Ministry for maintenance of National Highways or the amount spent by the HPPWD for such maintenance, post the matter on 22nd May, 2019. For other issues, the case shall be taken up on 18th June, 2019."

4. Pursuant to the orders passed on 09.04.2019 directing the Ministry of Road Transport and Highways to take a time bound decision for revision of the guidelines for declaration of State Roads as National Highways, an affidavit has been filed on behalf of the Ministry. As per the affidavit, inter ministerial consultations are mandatorily required to be followed. It is stated that the revised guidelines would also be applicable for the assessment of detailed project reports.

5. In a separate status report filed by the Himachal Pradesh Public Works Department, it is stated that there are 19 existing National Highways running to a length of 2592 Kms in the State of Himachal Pradesh and that due to harsh weather, the cost of maintenance and repairs has increased. A tabulation is also presented along with the report indicating the details of National Highways.

6. In view of the above status report, no further orders are necessary in this PIL. Hence, it is closed.

7. Pending application(s), if any, also stand(s), disposed of.