

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

CWPII No. 31 of 2023

Order reserved on: 23.5.2024

Date of pronouncement : 31.5.2024.

Madan Lal

...Petitioner.

Versus

State of H.P. &amp; others

...Respondents

*Coram:****The Hon'ble Mr. Justice M.S. Ramachandra Rao, Chief Justice.******The Hon'ble Mr. Justice Satyen Vaidya, Judge.****Whether approved for reporting?<sup>1</sup>*

For the petitioner : Mr. Umesh Kanwar, Advocate.

For the respondents : Mr. Anup Rattan, Advocate General with Mr. Rakesh Dhaulta, Mr. Pranay Pratap Singh, Mr. Sushant Keprate and Mr. Gobind Korla, Additional Advocates General and Mr. Arsh Rattan and Ms. Priyanka Chauhan, Deputy Advocates General, for the respondent-State.

Mr. K. D. Shreedhar, Sr. Advocate with Ms. Shreya Chauhan, Advocate, for respondent no.6.

Mr. Balram Sharma, Deputy Solicitor General of India for the respondent-UI.

Ms. Oshin Anand Chauhan, Advocate, for respondent no.9.

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<sup>1</sup> **Whether reporters of Local Papers may be allowed to see the judgment?**

Mr. R. L. Sood, Sr. Advocate with Mr. Rajiv Rai, Advocate, for respondent no. 7.

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**Satyen Vaidya, Judge:**

The issue raised in the instant Public Interest Litigation is of extreme importance, as it relates to breach of environmental laws.

2. The petitioner has alleged repeated instances of illicit dumping of muck into Govind Sagar Lake and its tributaries in Districts Bilaspur, Himachal Pradesh. The agencies involved in construction works of four laning of Kirtapur-Ner Chowk Section of NH-21, contractors engaged by HPPWD and other people engaged in construction activities in the vicinity have primarily been suspected as violators.

3. On 22.5.2023, this Court directed the official respondents to ensure that there was no illegal dumping of muck in Govind Sagar Lake and its feeding khuds/nallahas till further orders.

4. On 26.6.2023, this Court passed the following order: -

*“Learned Advocate General appearing for respondents No. 1 to 5 and 8 and counsel for respondent no. 6 shall come with concrete proposals to remove the muck dumped in Govind Sagar Reservoir by the next date of hearing.”*

5. Thereafter, on 20.7.2023, this court passed the following order: -

*“Heard.*

*We direct affidavits to be filed by the Union of India, through Secretary, Ministry of Environment & Forests, Ministry of Transport and NHAI, on the action proposed to be initiated to deal with illegal dumping by the contractors of NHAI, within two weeks.*

*The learned Advocate General for the State of the Himachal Pradesh shall also file an affidavit as to what action the State is proposing to take against the contractors engaged by the Public Works Department, who are also partly responsible for this muck dumping, and what measures the State intends to take to prevent private people to prevent them from dumping muck on the banks of river or in the valleys in the State.*

*List both the matters on 9.08.2023.*

*Registry is directed to reflect the name of Learned Deputy Solicitor General of India as Counsel for Union of India in CWP No. 5243 of 2022, in the cause list.”*

6. It has been about ten months thereafter but nothing appears to have changed. Neither the authorities have come up with any road map which they intend to follow to stop illegal dumping of muck nor any effective steps appear to have been taken to tack the violators nor has there been any effort shown to clear the offending sites.

7. On 24.4.2024, the Deputy Commissioner, Bilaspur was directed to file his reply in relation to muck dumping being done by one Vinod Kumar in Govind Sagar Lake and action taken thereon by the Revenue Department of the State in light of report dated 30.10.2023 of the SDO (Civil), Jhandutta, District Bilaspur, H.P. In addition, the Superintendent of Police, Bilaspur was also mandated to reply as to what measures the police had taken to stop the transportation of muck through lorries to the sites of illegal dumping.

8. The aforesaid orders came to be passed by this Court in the backdrop of material made available in the present proceedings *viz.*

(a) the Joint Inspection Report prepared in April, 2018 regarding dumping of muck in tributaries of Govind Sagar Lake and the subsequent reporting by the officers of Fisheries Department with respect to the adverse effect on the eco system due to huge dumping of muck in Govind Sagar Lake and its tributaries. Report by expert's group of fish productivity in Govind Sagar Lake has also pointed out towards the depletion of fish eco system by the increase of effluents in the water.

(b) Further, the SDM, Jhandutta in his report dated 13.4.2018 had found the instances of illegal dumping of muck.

(c) The petitioner has also placed on record number of complaints filed by him before the authorities of Fishery Department, Forest Department, Deputy Commissioner,

Bilaspur and other authorities along with photographs evidencing the dumping of muck into the water bodies.

(d) Yet another evidence of large-scale illegal dumping of muck is available in the shape of damage reports issued by the Forest Department against different violators. As per reply of Respondents 1 to 4, 203.96 Cum muck was detected on forest land and fine to the tune of Rs. 10,52,110/- is stated to have been imposed on violators

(e) A report dated 21.6.2023, prepared by the Field Kanungo of Revenue Department also reveals illegal dumping on government and private lands.

(f) Deputy Commissioner, Bilaspur in his affidavit dated 17.7.2023 had admitted to have issued instructions to clear the muck.

(g) NHAI in its affidavit dated 8.8.2023 has admitted that muck was detected at chainage 128,129 and 130 of the project. It also admitted to have issued notice on the subject to the concessionaire.

(h) In its reply dated 26.6.2023 the NHAI has also admitted soil erosion into the water bodies.

(i) The H.P. State Legal Services Authority through its report on awareness and sensitization drive held by it has clearly reported unscientific dumping alongwith Govind Sagar Lake and other areas

9. From the various responses received in these proceedings from the official respondents, except for some paper work in the form of

holding meetings and issuance of directions etc. nothing substantial appears to have been done.

10. NHAI in its affidavit has stated that out of total muck amounting to 6,41,256 Cum the concessionaire had utilised 4,08,010 Cum of muck in the project and 2,34,080 Cum. of muck was dumped in private lands. However, the claim of NHAI has been contradicted by its own admissions as also by way of plethora of other material as noticed above.

11. As the aspect of depletion of natural resources and its impact on environment cannot be ignored similarly the violations of law with impunity on account of the failure on part of authorities to enforce needs to be viewed seriously.

12. There is no scarcity of legislative measures to put curbs on the illegal activities causing environmental depletion. Sections 15 to 17 of Environment Protection Act, 1986, Sections 268 to 270, 279 to 280, 287 to 288, 290, 291 and 294 of IPC are some of the penal provisions enacted for the purpose. In addition, the Water Prevention and Control of Pollution Act, 1974, Forest Conservation Act, Air Prevention of Pollution Act 1981 and Waste (Management and Handling) Rules 1989 are other penal provisions governing the field.

13. As noticed above, there has been blatant violation of environmental laws noticed by the State Authorities but strangely, no penal action has been initiated against the violators. This conduct of the authorities clearly amounts to failure on their part to discharge constitutional and legal obligations.

14. Article 21 of the Constitution also manifests the right to live in clean environment. Article 48-A obligates the States to endeavour to protect and improve the environment and to safeguard the forest and water life of the country.

15. Taking serious view of above violations, this court, by way of interim order, commands the official respondents as under

(i) to initiate penal action against the violators, who have dumped the muck illegally in Govind Sagar Lake or its tributaries/rivulets/khuds or on other forest or public lands and to take such action to its logical conclusion as expeditiously as possible and in any case not later than six months hereafter; and

(ii) to initiate all possible steps to clear the muck from the shores of Govind Sagar Lake, its tributaries, forest and all public lands.

16. The Chief Secretary of the State shall personally monitor the implementation of the directions of this Court and in the first

instance shall file his affidavit of compliance on the next date of hearing.

List on **1.7.2024**.

**(M.S. Ramachandra Rao)**  
**Chief Justice**

31<sup>st</sup> May, 2024  
(kck)

**(Satyen Vaidya)**  
**Judge**

High Court