

BEFORE THE ADJUDICATING OFFICER APPOINTED UNDER  
SECTION 15-C OF THE ENVIRONMENT (PROTECTION) ACT, 1986  
AND SECTION 45-B OF THE WATER (PREVENTION AND  
CONTROL OF POLLUTION) ACT, 1974

In the matter of:

H.P. State Pollution Control Board, through its Regional Officer,  
Bilaspur, H.P.

... Complainant

Versus

M/s Gawar Construction Ltd., VPO Baloh, Tehsil Ghumarwin,  
District Bilaspur, Himachal Pradesh & NHAI

... Respondent

19-08-2025

Case Called at 4 PM

Order

1. This adjudication proceeding arises out of a complaint dated 02.12.2024 filed by the Himachal Pradesh State Pollution Control Board (hereinafter referred to as 'Board' in short) against M/s Gawar Construction Ltd., for violations of the provisions of the Environment (Protection) Act, 1986 (hereinafter referred to as 'Environment Act' in short) and the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as 'Water Act' in short). The matter pertains to unscientific muck dumping and failure to adopt adequate protection measures during the execution of the Kiratpur-Nerchowk Four-Lane Highway Project in District Bilaspur, Himachal Pradesh. The complaint was filed in accordance with Section 15-C of the Environment Act as amended by the Jan Vishwas (Amendment of

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Provisions) Act, 2023 and Section 45-B of the Water Act as amended by the Water (Prevention and Control of Pollution) Amendment Act, 2024, which authorises the designated Adjudicating Officer to conduct an inquiry and impose monetary penalties, as per the procedure prescribed by the Environment Protection (Manner of Holding Inquiry and Imposition of Penalty) Rules, 2024 and Water (Manner of Holding Inquiry and Imposition of Penalty) Rules, 2024; notified under the aforesaid Acts.

2. As per the complaint of the Board, inspections conducted by their Regional Office revealed instances of muck dumping by the Respondent in the vicinity of sensitive water bodies, namely the Govind Sagar Lake and its tributaries. Such actions posed a potential danger of pollution, choking of water channels, and contamination of drinking water sources. The Board issued multiple notices to the Respondent on 14.11.2022, 17.06.2023, 27.06.2023, 03.07.2023, and 20.06.2024 directing that adequate stabilization and protection measures be taken. Despite the issuance of these statutory notices

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under the Water and Environment Acts, the Respondent failed to take

timely remedial action at several critical sites. Consequently, the

Board, in exercise of its powers to levy Environmental Compensation

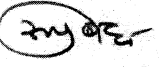
(EC) on the basis of 'polluter pays principal' imposed ECs of ₹2,50,000 on 30.05.2024 and ₹4,00,000 on 30.10.2024. These ECs were paid by the Respondent.

3. The Respondent in its reply dated 28.01.2025 contended that it had not committed any environmental violation. It claimed that the

majority of the hill cutting and muck generation had been completed by the previous contractor, IL&FS Engineering, and that when M/s Gawar Construction Ltd. took over the balance work in 2021, only limited cutting work was required to be done. It also contended that the muck was disposed of on leased private lands and that adequate protection measures, including crate walls, gabion walls, stone pitching, coir matting, and geotextile reinforcement, were eventually undertaken and completed. These claims were supported by compliance reports and the final inspection conducted on 07.11.2024, which found that the requisite safeguards had finally been implemented.

4. The Respondent further argued that the penalty/EC of ₹4,00,000 was imposed while the six-month timeline granted by the Hon'ble High Court in CWPIL No. 31/2023 titled Madan Lal v. State of H.P. & ors was still running, and thus the action was premature. Furthermore, it contended that no show cause notice had been issued by the Board immediately prior to imposition of the second EC. It sought that no penalty be imposed under the Environment Act or the Water Act and that the complaint proceedings be dropped in view of final compliance.

5. The Board filed a detailed rejoinder contesting these claims submitting that a joint committee for inspection of the dumping sites near the catchment area of Gobind Sagar Lake was constituted by District Administration comprising of officials of various departments. i.e. SDM(s), BDO(s), Forest Deptt, Mining Deptt., T&CP Deptt, Police

  
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Deptt, NHAI and the Board. The joint committee conducted inspection on 05.06.2024, wherein, total 10 number sites were identified by the committee which required protection measures for stabilization of muck dumped at the sites. The Deputy Commissioner Bilaspur vide letter dated 06.06.2024, sent the report of the Joint Committee to the Project Director, NHAI and M/s Gawar Construction Ltd and directed them to start the restorative work within a week and to complete the work within three months. (The letter dated 06.06.2024 alongwith report of the Joint Committee is annexed as Annexure-IV of the complaint). Pursuant to the Joint Inspection conducted on 05.06.2024, the officials of the Board conducted further inspection on 19.06.2024 and issued a show cause notice on 20.06.2024 (Annexure-V of the complaint) seeking compliance within the timeline given by the Joint Committee i.e. three months (90 days) from the date of issuance of letter/report dated 06.06.2024 of the Joint Committee. The Board vide show cause notice dated 20.06.2024 clearly warned of proposed

  
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penal action stating that delay in providing protection works at muck dumping sites may cause spillage of muck into Gobind Sagar Lake during ensuing monsoon season.

6. The Board has further submitted that the Hon'ble High Court had not provided any leeway to violators but had rather directed the State authorities to complete penal action within six months, thereby obligating prompt action, including initiation of complaint proceedings under environmental laws. The Board further submitted that

compliance was achieved only after protracted delays and only upon repeated inspections, and that the late compliance does not absolve the liability of the Respondent under the environmental laws. It was also pointed out that the imposition of EC does not preclude or substitute the imposition of statutory penalty by the Adjudicating Officer, which is a distinct statutory remedy under the amended provisions of Environment Act and the Water Act.

7. The record reveals that inspections conducted on 19.06.2024, 08.07.2024, 23.07.2024, 22.08.2024 and on 09.09.2024 confirmed that protection measures were lacking at the sites as mentioned in the notices. When the inspection was conducted finally on 09.09.2024 (i.e. after completion of timeline of three months given as per the letter/report dated 06.06.2024 of the Joint Committee), the protection

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measures were lacking at four sites namely: Tunnel No. 2 Portal 1, Samletu Bridge at 19+300 LHS, Samletu Bridge area, and Chainage 24+200 (T3 P2). The Respondent could submit its full compliance report only on 23.09.2024 while the compliance was ultimately verified by the complainant Board during the inspection on 07.11.2024.

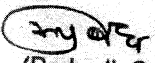
8. Thus from the perusal of material on record, it is clear that the timeline of three months for compliance was stipulated in the letter/report dated 06.06.2024 of the Joint Committee and thereafter the same timeline was also mentioned in the Notice dated 20-06-2025 of the Board. The stipulated timeline of 3 months expired on 06-09-

2025 while, the respondent could submit its full compliance report only on 23.09.2024. Thus it is established that while the Respondent eventually addressed the issues, the same was complied with atleast after a delay of sixteen days (07-09-2024 to 22-09-2024) beyond the stipulated timeline, making the risk of water pollution more imminent, endangering the ecology, spillage of muck into Gobind Sagar Lake during the monsoon season. The delay itself constitutes a serious violation under both the Water and Environment Acts. As per Section 24 read with Section 43 of the Water Act, liability is attracted not only due to actual pollution causes but also by the likelihood of pollution due to inaction or negligence, especially when the non-compliance was adequately brought within the knowledge of the respondent and sufficient timeline of three months was given for compliance.

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9. Moreover, under the amended provisions of the Environment Act and Water Act, the imposition of monetary penalty is a legally distinct process which is independent of and may be in addition to the levy of EC by the Board.
10. The Board has filed this complaint under both Water Act and the Environment Act. However, notices attached with complaint reveals that notices were issued only under the Water Act. Hence, the case under Environment Act is not made out, penalty imposed shall be restricted only under the provisions of the Water Act in this complaint proceeding. The record further reveals that the Board has not issued

notices to the company for actual muck dumping rather the notices were issued for failure to provide adequate protection measures within stipulated timeline to prevent the dumped muck from rolling down into the water bodies. This further restricts the scope and penalty to be levied under this complaint proceeding.

11. After careful consideration of the full facts, pleadings, inspection reports, directions of the Hon'ble High Court, and legal submissions, I am satisfied that M/s Gawar Construction Ltd. was in breach of its obligations under the framework of Water Act. Although restoration measures were eventually taken, the same were unduly delayed and completed only after delay of sixteen days beyond the stipulated timeline of three months. The risk posed to the Govind Sagar Lake and its catchments due to the Respondent's omissions was real, significant, and well documented. Thus, the compliance done in delayed manner cannot absolve the company from the liability under the environmental laws.


  
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12. Therefore, in exercise of the powers vested under Section 41-A(2) and Section 43 of the Water Act, a penalty of ₹10,000 (Rupees Ten Thousand only) per day, per site, is hereby imposed for the delay of sixteen days in respect of the four non-compliant sites. Accordingly, a total penalty of ₹6,40,000 (Rupees Six Lakhs forty thousand only) is imposed on M/s Gawar Construction Ltd. for failure to comply with the directions. This penalty is independent of and in addition to the EC already levied by the Board, and shall be deposited within 30 days

of receipt of this order. Failure to comply shall entail further coercive measures as per law.

13. A copy of this order is to be forwarded to the complainant and respondent for necessary follow-up and compliance.

Accordingly the complaint is disposed of.

  
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