

No. STE-A (3)-16/2025
Government of Himachal Pradesh
Department of Env. Sci. & Tech.& Climate Change

To

1. The Member Secretary,
H.P. State Pollution Control Board,
New Shimla 171009.
2. Shri Sahab Singh S/O Kehar Singh,
R/o Village Sangti, PO-Chaily, Summer Hill,
Tehsil & District Shimla-171005.


Dated Shimla-2, the **25-03-2026**.

Subject: Appeal u/s of Water (Prevention and Control of Pollution) Act, 1974 and Section of the Air (Prevention and Control of Pollution) Act, 1981 against impugned order passed by HPSPCB.

Sir,

I am to refer to the subject cited above and to say that the appeal has been heard by the Secretary(EST&CC)-cum-Appellate Authority and order has been passed, copy of order dated 24-03-2026 is enclosed for your information.

Yours faithfully,


(Satpal Dhiman)
Additional Secretary (Env.Sci.Tech.&CC) to the
Government of Himachal Pradesh
Phone No.0177-2621874.

BEFORE SHRI SUSHIL KUMAR SINGLA, IFS, SECRETARY, ENVIRONMENT, SCIENCE, TECHNOLOGY & CLIMATE CHANGE -CUM- APPELLATE AUTHORITY AS CONSTITUTED UNDER WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974 AND AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981

Appeal No. 16/2025

In the matter of:

Sahab Singh S/o Kehar Singh, R/o Village Sangti, P.O Chaily, Summerhill, Tehsil & District Shimla (171005)

... *Appellant*

Versus

Himachal Pradesh State Pollution Control Board, through its Regional Officer, Shimla, H.P

...*Respondent*

Reserved on dated 10.03.2026.

Pronounced on dated 24-03-2026

Present: None for Appellant.

Sh. Sandeep Kumar, Law Officer, HPSPCB and Sh. Tarun Thakur, Asstt. Law Officer, HPSPCB on behalf of Respondent.

Order

1. The present appeal has been filed by Sh. Sahab Singh S/o Kehar Singh, R/o Village Sangti, P.O Chaily, Summerhill, Tehsil & District Shimla (171005) under Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974 wherein, the appellant has challenged the order dated 24-09-2025 issued by the Member Secretary, Himachal Pradesh Pollution Control Board (HPSPCB) imposing, Environmental Compensation of Rs. 1 lakh upon the appellant for unscientific and illegal disposal of muck along the SangtiNallah.


Secretary (EST & CC) to the
Government of H.P.

Secretary (EST & CC) to the
Government of H.P.

Facts:

2. As per the material on record, the brief facts of the case are that in compliance to order passed by the Hon'ble High Court of Himachal Pradesh in CWPIL No. 110/2018 titled as *Court on its own motion Vs. State of HP & others*, the officials of the Regional Office, Shimla HPSPCB under the Chairmanship of District Legal Service Authority (DLSA), Shimla on dated 30-06-2025 inspected the site i.e. Chadwick Fall catchment area. During the inspection huge quantity of muck generated from various construction activities, inter alia site development, plot cutting and excavation of foundation work, was found dumped down the valley towards Sangti Nallah without any protective measures. A show cause notice was issued by the Regional Officer, HPSPCB, Shimla to the appellant on 01.07.2025 to take immediate steps for scientific disposal of muck and for providing proper retaining structure. The appellant submitted a reply on 09.07.2025, undertaking that he agrees with the findings of the inspection committee but he has requested for reasonable time of 2.5 months (75 days) to dispose and manage the muck and to construct a gabion structure. Subsequently the HPSPCB issued order dated 24-09-2025 wherein, Environmental Compensation of Rs. 1 lakh had been imposed upon the Appellant.

Submissions:

3. The respondent Board has filed its reply dated 09.12.2025 wherein it has been submitted that Hon'ble High Court of HP has taken suo moto cognizance of a letter petition with respect to maintenance of an old natural water body known as "Chadwick fall" at Sangti, Shimla and admitted a CWPIL No. 110/2018. The Hon'ble High Court of HP vide order dated 01-01-2025 directed the District Legal Service Authority, Shimla (DLSA) to visit the site and submit comprehensive report. The site was jointly inspected by DLSA, Shimla alongwith representatives from stakeholders departments i.e. Forest Department, HPSPCB, MC Shimla, SJPNL Shimla, Gram Panchayat Sangti – Sanhog, Shimla etc. and during the inspection huge quantity of muck

generated from various construction activities i.e. plot cutting and site development and excavation of foundation work has been found dumped down the valley towards Sangti Nallah without any protection measures which has the propensity of getting washed away along with rain water and pollute the water of Chadwick Fall or its Adjacent Nallah. During the course of inspection, the Pradhan Gram Panchayat, Sangti – Sanhog apprised that the land in question is owned by the appellant.

4. The Respondent Board has further submitted that in response to the violations observed during the joint inspection a show cause notice dated 01-07-2025 was issued to the appellant to take immediate steps for proper and scientific disposal of muck. The respondent Board submitted that the reply submitted by the appellant was not found satisfactory and no steps were taken to comply the directions. The site was again inspected by the officials of the State Board on dated 02-09-2025 and no improvements on the part of appellant were observed and muck was observed to be washed away during rainfall. Therefore, vide order dated 24-09-2025 the Environmental Compensation of Rs. 1 lakh was imposed upon the appellant on the basis of methodology laid down by Hon'ble NGT in OA No. 256/2013 titled as Abhishek Rai Vs. State of HP & Ors. which was adopted by the State Board for entire State of HP in 84th Board meeting vide office order dated 07-12-2024 (Annexure R-1/7) in the cases involving illegal muck dumping.

It has been argued on behalf of HPSPCB that under Section 24 (1) (b) of the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as the 'Water Act' in short), liability is attracted not only when actual water pollution is caused but also by the likelihood of pollution that is to say when the water pollution becomes imminent due to inaction or negligence. Hence order of imposition of Environmental Compensation dated 24-09-2025 was imposed upon the Appellant.

5. The rejoinder was filed by the appellant on dated 15-01-2026 wherein, he has contended that the appellant had requested to seek reasonable time of 75 days to properly dispose, manage and dump such pile of soil / muck to construct

gabion as it requires some reasonable time to build it and it was difficult to pick and dump the wet soil during the monsoon season. He further contended that he has complied with all the directions of the respondent department and have taken all the appropriate steps in order to protect the environment.

6. The appellant further submitted that the judgement in Abhishek Rai vs. State of HP & Ors pertains to dumping in a Beas river, whereas the present case relates to private owned land and nallah, thus is violative of Article 12 of Indian Constitution. To this respondent Board has submitted in its reply that the methodology laid down by the Hon'ble NGT in Abhishek Rai case has been adopted by the State Board in its 84th Board meeting for entire State in all cases related to unscientific dumping of muck in rivers, nallah or any other water body.

Findings on the issues involved:

Issue-I. Whether the Appellant is liable to pay Environmental Compensation or not ?

7. As per facts on record, the HPSPCB had issued notice dated 01-07-2025 to the appellant to take immediate steps for proper scientific disposal of muck and to provide proper retaining structure, however till 02-09-2025 no steps were taken by the appellant to comply with the Board's directions, hence impugned order dated 24-09-2025 was passed by the respondent Board. As such sufficient opportunity of being heard and time was granted to the appellant before passing the impugned order.

8. Section 24 of the Water (Prevention and Control of Pollution) Act, 1974 prohibits the use of stream or well for disposal of polluting matter. Sub Section (1) Clause (b) of Section 24 provides as follows:-

"...no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream in a manner leading or

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likely to lead to a substantial aggravation of pollution due to other causes or of its consequences..."

Therefore, from the language of Section 24 of the Water Act it is clear that requirement for constituting a contravention/non-compliance under aforesaid section is fulfilled not only when the muck has been dumped directly into the water body but also when the muck has been dumped in such a manner leading to likelihood or danger of rolling down of muck into the water body. Thus, in order to attract liability under Section 24 of the Water Act, 1974, it is not absolutely necessary that water pollution has actually been caused rather it would be enough that there is danger/likelihood of water pollution due to unscientific muck dumping. In such cases proof by way of water sampling reports showing actual water pollution is not absolutely necessary. Photographic evidence showing danger/likelihood of water pollution & ecological damage due to muck dumped on hill slopes adjacent to water bodies in unscientific manner without providing adequate protection measures would be enough to prove contravention under the provisions of Section 24 of the Water Act.

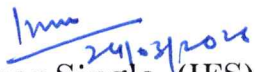
9. The operative part of the order dated 29-07-2013 passed by the Hon'ble NGT in OA No. 256/2013 titled as Abhishek Rai Vs. State of HP & ors, says as under:- *"We also direct all the authorities concerned to keep a strict vigil to prevent throwing of municipal solid waste, untreated sewage, effluent or other material/ construction material into the river Beas. Whosoever is found to be throwing or dumping any such material, effluent etc. directly or indirectly into the river Beas or its tributaries or even at its banks, will have to pay a sum of Rs. 1.00 lakh as compensation for causing pollution on the basis of the "polluter pays principle"....."* .The respondent Board has adopted the said methodology for all the rivers, nullahs or water bodies within the State of Himachal Pradesh vide SOP dated 07-12-2024. As such the respondent Board is empowered to impose Environmental Compensation in the instances of illegal muck dumping.

10. It is undisputed fact that the impugned order for imposition of Environmental Compensation was issued on the basis of site inspection and observations of DLSA, Shimla which conducted the joint inspection in compliance to directions passed by the Hon'ble High Court of HP in CWPIIL 110/2018. The said CWPIIL is still pending for final adjudication before the Hon'ble High Court of HP.

Operative Part:

11. In view of the above facts and circumstances this authority finds no reason to interfere/set aside the order of Environmental Compensation passed by the respondent Board. Hence Appeal is dismissed.

12. Let a copy of this order be communicated to the parties. With these directions, the Appeal stands disposed of on this 24th day of March, 2026.


Sushil Kumar Singla, (IFS)
Appellate Authority -cum-
Secretary (Environment, Sci. Tech. &CC) to the
Govt. of H.P., Shimla-171002