IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWPIL No. 27 of 2025
Decided on : 17.11.2026

Ajay Prakash and others

…Petitioners

Versus

State of Himachal Pradesh and others

…Respondents

Coram
The Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice.
The Hon'ble Mr. Justice Bipin C. Negi, Judge.
Whether approved for reporting?[1]

For the petitioners	**:**	M/s Abhishek Dulta and Vishal Verma, Advocates.
For the respondents	**:**	Mr. Pranay Pratap Singh, Additional Advocate General, for the respondents-State. M/s Dhiraj Thakur and Oshin Anand Chauhan, Advocates, for respondent No.6. Mr. Bharat Bhushant, Senior Panel Counsel, for respondent No.7. Mr. Maan Singh, Advocate, for respondent No.8. Mr. Vikrant, Advocate, for Mr. C.D. Negi, Advocate, for respondent No.9. Mr. Sanjeev Bhushan, Senior Advocate, with Mr. Sparsh Bhushan, Advocate, for respondent No.10.

G.S. Sandhawalia, Chief Justice *(Oral)*

The present Public Interest Litigation has been filed by the petitioners seeking a writ in the nature of mandamus

1 *Whether reporters of the local papers may be allowed to see the judgment?*

directing the respondents to immediately halt, dismantle and remove the illegal Bitumen Hot Mix Plant situated in Village Rori, Panchayat Khanlag, Post Office Manju, Tehshil Arki, District Solan, Himachal Pradesh and further to declare the NOCs granted by Gram Panchayat Khanlag as void *ab initio* being in violation of environmental laws and the MoEFCC Notification dated 18.05.2023.

2. It is averred in the petition that the said plant should have been set up at a distance of 0.5 kms from habitation, but it was set up at a distance of 248.43 meters and there was no consent in favour of respondent No.10 for the establishment of the said plant from the H.P. State Pollution Control Board, as per the information supplied on 30.04.2025 (Annexure P-8).

3. In the course of proceedings, it was found that on an inspection done on 05.04.2025, it was found that the establishment activities of the plant were under process, but it was not operational. Thereafter, a show cause notice dated 08.04.2025 had been issued and then the private respondent applied for Consent to Establish through online application on 22.04.2025 and the consent had been granted on 14.05.2025. It had been justified that since the plant had not been put into operation, no punitive and regulatory action was taken, since the consent to Operate was issued on 09.06.2025 and the date of

expiry of the permission was 13.05.2026 (Anexure R-6/5).

4. It is brought to our notice that there is a relaxation of the minimum distance criteria which has been granted vide Annexure R-6/3 on the alleged account of the natural barrier between the Hot Mix Plant and the *abadi deh* since the residences were located at a higher elevation from the plant site.

5. It is not disputed that the plant was set up for the upgradation of the Kraraghat to Bahawan road and Galog Tukana road (Jokhaghatti).

6. On 30.04.2026, a video had been shown to us of the Hot Mix Plant operating, which showed smoke polluting the whole valley and accordingly, we had directed the official(s) of respondent No.6 to visit the said spot and find out whether the plant is conforming with the proper specification or not. Respondent No.10 had also been directed to file an affidavit when the work was to be completed.

7. On 15.09.2026, we noticed that respondent No.10 was claiming that 11 kms of metalling of the road was still pending and the consent to operate the plant had been renewed up to 31.03.2027. We also noticed that the pollution was as high as 15984 mg/Nm3 against the prescribed norm of 300 mg/Nm3 and a penalty of Rs.1,50,000/- was also imposed upon respondent No.10 on 05.05.2026 by the Pollution Control Board

(Annexure R-6/9). On account of upgradation having been done, the levels were then brought down on 19.06.2026 to 41 mg/Nm3.

8. It was noticed that the defence of the State right from the start was that the Hot Mix Plant was only to operate till the completion of work and the same would be completed within the time schedule of two months, as per reply dated 08.09.2025. Accordingly, the State was directed to file necessary affidavit as to how much of work respondent No.10 had completed and if not completed, whether any penalty had been imposed upon them or not.

9. In compliance of the said order, the State has filed an affidavit of the Superintending Engineer, 3rd Circle HPPWD, Solan, H.P., that the work of tarring could not be completed on account of the monsoon and penalty was not imposed upon the contractor on account of the difficulty in supply of the bituminous material due to US-Iran conflict and the plant would remain operational only till the extended period expires on 27.03.2028, as per the period stipulated by the Ministry of Rural Development, Government of India.

10. Counsel for the State has also placed on record letter dated 16.09.2026, whereby letters were issued to the said contractor that the work was awarded on 16.03.2024, which was was required to be completed within a stipulated period of 18

months, i.e., by 30.09.2025, which has not been done. The provisional time extension was granted up to 30.09.2026, without prejudice to the right of the Government to recover liquidated damages in accordance with the provisions under clause contained in the agreement No.2 of 2023-24, to keep the agreement alive.

11. Keeping in view the above, since the plant as such, was only for the purpose of particular project and the same was supposed to be completed up to 30.09.2026, we do not see any valid reason why the said Hot Mix Plant should be allowed to operate in the said area, once the work is no longer subsisting, as it has also been the consistent stand of the said respondent that he would close the plant on the completion of the work.

12. In such circumstances, we are of the considered opinion that if any balance work is left, the same has to be completed expeditiously and the plant would require to be shut down by 30.11.2026, since apparently, there was a relaxation given only on the ground that the residences were located at a higher elevation and the minimum distance criteria was relaxed, as there was a violation of the 500 meters mandatory gap as such. Therefore, the setting up and running of the plant as such, cannot be justified beyond the said date now, since the work is coming to an end. Resultantly, respondent No.6 is directed to

ensure that electricity supply and the functioning of the plant is shut down by 30.11.2026.

13. Accordingly, the petition is disposed of. Pending miscellaneous application(s), if any, also stand disposed of accordingly.

(G.S. Sandhawalia)
Chief Justice

(Bipin C. Negi)
Judge

November 17, 2026
(Shivank Thakur)