



(2026:HHC:10863)

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPIL No. 01 of 2025
Reserved on: 24.02.2026
Pronounced on: 08.04.2026
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Court on its own motionPetitioner.

Versus

The State of HP and othersRespondents.

Coram:

The Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice.
The Hon'ble Mr. Justice Bipin Chander Negi, Judge.

Whether approved for reporting?

For the petitioner: Mr. Deven Khanna, Advocate as Amicus Curiae.

For the respondents: Mr. Anup Rattan, Advocate General with Mr. Rakesh Dhaulta, Additional Advocate General for respondents No. 1, 3 and 4-State.

Mr. Rahul Thakur, Advocate, for respondent No. 2.

Mr. Anand Sharma, Senior Advocate with Mr. Karan Sharma, Advocate, for respondents No. 5 and 6.

G.S. Sandhawalia, Chief Justice.

The present case is about the Rainbow Trout and Brown Trout fish being caught in the sandstorm of silt and not being allowed to breath and breed.

2. The present Public Interest Litigation has been registered on the basis of a letter received in the office of the Chief Justice that on account of discharge of silt from Barot Dam in District Mandi, Himachal Pradesh, water purity level as such has been affected which is leading to casualty of the marine life in the water.

3. Since the similar issue regarding silt from reservoirs of Shanan Power Project was being dumped into the Uhl River, had been raised in CWPII No. 57 of 2018 titled ***Court on its own motion vs. State of HP and others***, which was disposed of by a coordinate Bench on 04.10.2018, in which Mr. Deven Khann, Advocate was appointed as Amicus Curiae, this Court deemed it fit to appoint Mr. Deven Khanna, Advocate as Amicus Curiae in this Public Interest Litigation also. Therefore, vide order dated 10.01.2025 Mr. Deven Khanna, Advocate was appointed as Amicus Curiae to assist the Court in this matter. The earlier PIL bearing CWPII No. 57 of 2018, had been closed by the Coordinate Bench on 04.10.2018, on the instructions from the petitioner therein. The relevant portion of the said order reads as under:

“Today when the matter was taken up for consideration, leaned counsel for the petitioner has submitted that as there is no unscientific dumping of the silt by the project proponent in Uhl river,

therefore, these proceedings can be closed. On instructions he has further submitted that in future also there shall be no unscientific dumping silt in Uhl from the two reservoirs of the project. Learned Amicus Curiae has also expressed his satisfaction over the statement so made by the project proponent. Accordingly, we close these proceedings with the observation that there shall be no unscientific dumping of silt from two reservoirs of the project in the Uhl river."

4. Now, the similar issue has been raised again through a letter written to the Chief Justice of this Court which has been registered as PIL as aforesaid.

5. The matter raises serious concerns arising out of continuing environmental degradation caused by unscientific de-silting operations of the Shanan Hydroelectric Project (HEP) at Barot, District Mandi-respondent No.6 and the consequent deterioration of water quality, deterioration of aquatic ecosystem, fish mortality, destruction of agricultural fields due to unscientific silting and ecological imbalance in the Uhl River, a designated cold-water trout habitat of national importance.

6. The matter also raises serious concerns regarding the repeated violation of earlier directions of this Court passed in CWPIIL No. 57 of 2018, continued non-compliance with the recommendations of the Joint Expert Committee constituted

pursuant thereto, and disregard of the obligations arising under the Himachal Pradesh Fisheries Act, 1976, the Water (Prevention and Control of Pollution) Act, 1974, and the directions of the National Green Tribunal (OA) No. 498 of 2015 concerning mandatory environmental flows.

7. Apparently, the Shanan Hydroelectric Project, commissioned in 1932, diverts the waters of the Uhl River through tunnels from Barot to Jogindernagar. Two balancing reservoirs, an old reservoir of capacity 11.3 MCF and a new reservoir of capacity 5.6 MCF, were created at Barot and over decades, heavy siltation has accumulated, requiring periodic removal.

8. In the year 2018, also widespread complaints were received regarding the discharge of silt into the Uhl River, resulting in mortality of trout and severe discoloration of water. Taking cognizance, this Court, vide order dated 20.03.2018 in CWPIIL 57 of 2018, directed the constitution of a Joint Expert Committee comprising representatives of the Departments of Fisheries, IPH (Jal Shakti Vibhag), and Agriculture.

9. The Committee conducted an inspection on 04.04.2018 and submitted a detailed report (Annexure A-1) therein highlighting grave ecological lapses and

recommending periodic, scientifically monitored desilting only outside the fish-breeding season. The petition was disposed of vide order dated 04.10.2018, with a clear direction that "there shall be no unscientific dumping of silt from the two reservoirs of the project into the Uhl River", in which respondent No.6 was also as respondent being the project proponent referred to above.

10. It appears from the records that notwithstanding these directions and various complaints to the Pollution Control Board and other authorities by locals and further various newspaper reports which had been made to the effect that in the year 2024-25, the project authorities once again had undertaken de-silting in the lean and breeding season (November to February), without any effective monitoring, thereby causing heavy turbidity and serious ecological harm.

11. This aspect of de-silting in the breeding season from November to February as such is a matter of record and admission in spite of the fact that in the earlier round of litigation there was a report as such which had been received by the Expert Committee including the Assistant Director of Fisheries, Mandi, District Mandi, Himachal Pradesh that for the breeding season of trout, other technical and social aspects are safeguarded even if it is at the cost of power generation

capacity of the plant. It is observed in the recommendation of the Joint Committee that the remedial measures and suggestions that silt causes turbid aquatic environment which is like living in a perpetual sandstorm and the Fish obtain oxygen by filtering water through their gills, a task made harder in turbid waters.

12. The undertaking given as such by respondent No.6 that it would be done in a scientific manner in the Uhl river, apparently has been blatantly violated.

13. A perusal of the record would go on to show that in the initial report which is submitted in the first set of proceedings, in view of the order dated 20.03.2018 that the silt had accumulated over the last twelve years and then it was observed that it cannot be dumped into the river in one go and it was directed to ascertain the views of experts from the Departments of Fisheries, IPH and Agriculture and additional de-silting work of only one pond had to be carried out and that too only in a scientific manner. The said order reads as under:-

"We are happy to record the efforts put in by Sh. Deven Khanna, learned Amicus Curiae, Sh. Anand Sharma, learned counsel for respondents No. 6 and 7 and Sh. Vinod Thakur, learned Additional Advocate General in visiting the spot for ascertaining the factual position. Also, they have exchanged suggestions in writing. We have also heard Sh. Japan Singh Pathania, Chief Engineer, Hydel

Project Patiala at length. In principal, it is agreed that Sh. Pathania shall take action, in so far as possible, in implementing the suggestions and also ensuring scientific disposal of the part of the silt, which stands collected for the last twelve years. Let an affidavit of compliance be filed within a period of two weeks. Sh. Deven Khanna, learned Amicus Curiae emphasized that opinion of an expert and more particularly, geomorphologist be also ascertained in this matter, who perhaps is the best person to advise the manner in which the silt can be disposed of. It is not in dispute that the accumulated silt on the spot is of last twelve years. It needs to be disposed of in a scientific and planned manner. Though, we are not experts, but in our considered view, it just cannot be dumped into the river in one go. It is in this backdrop, we direct the State of Himachal Pradesh to ascertain the views of expert(s) from the departments of Fisheries, IPH and Agriculture. Let the opinion of the experts be placed on record through the affidavit of the Chairman, Himachal Pradesh State Pollution Control Board. It is mutually agreed that till the next date of hearing, the desilting work of only one pond shall be carried out and that too only in a scientific manner. List on 3rd April, 2018."

- 14.** A perusal of the earlier Joint Inspection Report of the Committee which was conducted on 04.04.2018 (**Annexure A-I**) in compliance of the above said order dated 20.03.2018 cements the fact that the accumulation of silt is for the last twelve years. The effort as such was thus made to clear the same by two rounds from 8:00 am to 5:00 pm by using pressure jetting manually and draining it through a small 3 feet dia scour opening/vale into the Uhl river. It was recommended that silt should be ejected periodically and shall not be allowed to be accumulated over the years to prevent the recurrence of present situation in future. The following

remedial measures and suggestions were given, which read as under:-

“Remedial measures/Suggestions:

1. The de-silting is being done manually by pressure jetting deposits and is being flushed through scour opening/valve having fixed diameter of 3 feet (0.9 m). The water discharge for dilution of silt at downstream is approximately 3 times the water used for desilting. The single scour valve of relatively small diameter is itself regulating the quantity of silt being disposed off. Therefore, desilting through small scour valve is proper having in built control over quantity of silt being ejected.
2. The de-silting presently being done for 14 hours may expose the aquatic life to extreme conditions for prolonged duration which should be split into two spells of 4 hours with break of about 3 hours in between i.e. from 8:00 AM to 12:00 noon, 12:00 Noon to 03:00 PM break and 3:00 PM to 7:00 PM. The break will help reduction of silt load and will further reduce the stress level of aquatic life. Turbid streams are not healthy habitats for many aquatic organisms, including coldwater fish species. Suspended solids that filter sunlight out are bad for trout and other aquatic organisms that rely on sight to find food, living in turbid aquatic environments is like living in a perpetual sandstorm. Fish obtain oxygen by filtering water through their gills, a task made harder in turbid waters. Harmful compounds and microorganisms easily bond to the suspended solids that increase turbidity, adding to the already lengthy list of negative impacts of sedimentation. **Trout trying to breathe in turbid waters is similar to a human trying to breath without a mask in a sandstrom.**
3. Strict monitoring of water quality parameters downstream of de-silting point must be ensured by installing or outsourcing the water testing

facility by the project authorities, and to monitor and control the parameters within permissible limits for aquatic livestock and water supply schemes. The random sampling by third party may also be ensured to exercise proper check. The HP State Pollution Control Board may take random samples to ensure conformity of results.

4. The desilting should be meticulously scheduled for the part of the year which is conducive to all the stakeholders like fisheries department, IPH Department, agriculture and State Pollution Control Board so that breeding season of trout, other technical and social aspects are safeguarded even if it is at the cost of power generation capacity of the plant.
5. The silt should not be allowed to accumulate over the years and should be ejected regularly by monitoring downstream water quality parameters to avoid recurrence of such events in future. The silt accumulation also reduces the storage capacity of the reservoir in addition to creating environmental issues. Such negligences must not be repeated in future.

(Khem Singh Thakur)
Asstt. Director (Fisheries)
Mandi Distt. Mandi.

(Pradeep Behl)
Divisional Engineer,
Central Zone, Mandi
At Bhangrotu.

(Er. Sunil Kanotra)
Superintending Engineer,
IPH Circle, Sundernagar."

15. The earlier Public Interest Litigation (PIL) having been disposed off on the undertaking on 04.10.2018 as such, however, the respondent did not positively act on the same which has led to initiation of the present proceedings on the representation dated 26.12.2024. There is another report on record which was given by the District & Sessions Judge, Mandi, which was the Spot Inspection Report of Barot Barrage conducted on 12.01.2019 forwarded to the Registrar (Rules) by the Chairman District Legal Services Authority on

26.02.2019 highlighting the Project at Barot which was utilising the hydroelectric potential of river Uhl and Lambhadagh to generate 110 MW electricity by respondent No.6 and the fact that the Barot is famous for trout fish which breeds between November to January when the water is cold and carrying lots of oxygen and the eggs need to hatch which are laid in gravel with a good flow of water passing through, so the gravels need to be loose and largely free from silt and between 5 to 50 mm in diameter. The Uhl river thus supports trout breeding and is a reputed site and great destination of every fisher and trout was introduced by the British in the early 20th Century and needs cold pristine high quality water to survive, and Barot situated at 1835 meters above sea level is ideal for the 5-15° Celsius temperature for the Trout fish.

16. The inspection which was done alongwith the Assistant Director, Fisheries again confirmed the fact that the de-silting has not been done for the last more than twelve years and it was also noticed that after de-silting and the flushing of the silt, the water was not fit for bath, which is 8 kilometers downstream from the de-silting point. It was further noticed that approximately 80,000/- m³ i.e. 262 m³ silt, per hour is being flushed into river Uhl by the project authorities when the de-silting work had been commenced from 21st

November, 2018 in two shifts. It was also found that the 15% of the inflow was not being released downstream in spite of the directions of the National Green Tribunal (NGT) dated 09.08.2017, in O.A. No.498 of 2015 (M.A. No.628/16) titled ***Pushp Saini Vs. Ministry of Environment and Climate Change.*** Resultantly, the report shows that the project proponent was also polluting the river Uhl by flushing the accumulated silt that too during the spawning season of trout fish but also not releasing the minimum required flow of water during the lean period to sustain the marine life. The Department of Fisheries and the HP State Pollution Control Board had not been intimated and it was noticed that directions were issued accordingly to respondent No.6 to stop the flushing of the silt and release the water and the allegations as such were found to be correct. The relevant part of the findings as such reads as under:-

“At the time of inspection, desilting work of new reservoir was in progress. The manpower deployed by the project authorities, were flushing the deposited silt by pressure jets and draining it through a 3 feet diameter scour valve into river Uhl. The project authorities reported that water discharged for dilution of silt is approximately 3 times the water discharged for desilting.

The adverse impact of ongoing process of desilting on aquatic culture may kindly be analysed by comparing photograph A & B (page No.7).

Photograph A has been clicked just before the desilting point in which pristine clear water and green

algae are visible. Photograph B has been clicked from Tikkan Bridge, 8 km downstream of desilting point. At Tikkan Bridge also, the water was not fit for bath what to speak of human consumption. Visible silt marks, on the wall of new reservoir, on the date of inspection and tentative calculation of the same makes it evident that approximately 90,000 m³ silt was lying there in the new reservoir, before the commencement of desilting process. Project authorities also produced desilting Schedule (Annexure-A) of New Reservoir, which reflects that desilting work commenced on 21st November, 2018, in two shifts i.e. from 9.00 a.m. to 11:45 a.m. and 2.00 P.M. to 5.00 P.M. A careful analysis of desilting record produced by the project authorities goes to show that in 305 hours (53 days*5.45 hour=305 hours), approximately 80,000 m³ i.e. 262 m³ silt, per hour was flushed into river Uhl by project authorities.

The allegation of complainant that Shanan Power Project authorities are not releasing 15% of inflow was also found to be correct. Infact S.E. Shanan Power Project, Sh. Ravinder Singh candidly admitted that they are not releasing 15% of inflow and produced a letter dated 19.12.2018 (Annexure-B). It is pertinent to mention here that Hon'ble National Green Tribunal in the matter of Puhsp Saini v Ministry of Environment and Climate Change and others dated 09.08.2017, in O.A. No.498 of 2015 (M.A. No.628/2016) has directed as under:-

"All the rivers in the country shall maintain 15% to 20% of the average lean season flow of that river. However, whichever state is unable to adhere to this average percentage, in that event we grant liberty to that State Government to move the Secretary, Ministry of Environment, Forest and Climate Change who shall in consultation with the Ministry of Water Resources examine such a representation and if it is desirable to fix any lower percentage then the percentage aforesated, then it will pass appropriate order. The order should be reasoned and thereafter it would be left to the discretion of State Government concerned to follow the directions of Ministry in accordance with law."

Shanan Power Project Authorities could not explain as to how they are exempted from maintaining 15% to 20% of the average lean season flow of river. Thus, Barot Barrage Authorities, in wilful defiance of order of Hon'ble National Green Tribunal, in the matter of Push Saini vs Ministry of Environment and Climate Change and others dated 09.08.2017, in O.A. No.498 of 2015 (M.A. No.628/2016) are not only releasing the minimum required flow but also polluting the river Uhl by flushing the accumulated silt that too during the spawning season of trout fish. Not only this, Additional Director Fisheries Mandi vide letter no.2611-13 dated 02.11.2018 (Annexure-C) has also expressed his concern about the release of water in river Uhl below Barot reservoir and intimated the HP State Pollution Control Board that non-availability of water in river Uhl is destroying fish breeding and adverse impact on fish population in the river.

Over and above this, Barot Barrage authorities did not bother to intimate other stakeholders i.e. Fisheries Department, IPH Department, Agriculture and State Pollution Control Board about their plan of de-silting of new reservoir. Environmental Engineer, Sh. R.K. Nadda also informed that Member Secretary H.P. State Pollution Control Board has served a show cause notice (Annexure-D) on Shanan Power Project authorities on 03.01.2019 and has directed them to stop the flushing of silt and to release the water as per Hon'ble NGT order dated 09.08.2017. Moreover, IPH Department, is running their two water schemes, downstream from the project site, by using the water of alternate source as the turbidity in river Uhl was found to be more than 50(NTU) whereas the same should have been below 7 for human consumption. Detailed report of IPH Department is Annexure-E. Thus, Shanan Power Project, despite objections from Department of Fisheries, Pollution Control Board and Environmentalists, were found flushing the silt into river Uhl on 12.01.2019 i.e. date of inspection and it can safely be concluded that the allegation of the complainant that Shanan Power Project authorities are discharging the silt into river Uhl,

without intimating the other stakeholders, appear to be correct.

Report is accordingly submitted for kind perusal and consideration please."

17. A perusal of the letter dated 02.11.2018 (**Annexure-C**) by the Assistant Director of Fisheries Mandi, District Mandi, Himachal Pradesh to the Chief Engineer, Punjab Electricity Board, Shanan Project J/Nagar, District Mandi, Himachal Pradesh-respondent No.6 would go on to show that the said Officer had visited the Trout Farm Barot on 01.11.2018 and found that not even a drop of water is left in Uhl river below reservoirs at Barot and it was destroying its breeding ground and having impact on trout population in the river and request was made to release optimum water volume in the natural river to save aquatic life in Uhl river below Barot reservoir and not to repeat the desilting/flushing operations as had happened last year, which confirms the independent Inspection Report which had done by the District & Sessions Judge Mandi, Himachal Pradesh.

18. The subsequent communication more than four years down the line was also issued by the Fisheries Officers on 18.10.2023 (**Annexure R-9**), whereby the information was sought to provide the computer generated data of Real Time Flow Measurement Device on account of the complaint

received that less quantity of water is being released into the river from the dam.

19. The response of respondent No.6 on 25.10.2023 (**Annexure R-8**), did not give the details of the discharge but it was held that the same can also be seen at the web-page of the project proponent and the said information was attached with the e-mail as such.

20. Apparently, on 26.11.2024 (**Annexure R-1**), the Department of Fisheries had been informed that the de-silting has to be done in the bed of Old Reservoir at Barot in the 1st week of December, 2024 which would be done in two shifts as such and disregarding the recommendation that should not be done in the breeding season.

21. The Department of Fisheries on the same day 26.11.2024 (**Annexure R-3**) had informed respondent No.6 that desiltation will fatally affect the Trout Fish Breeders as well as the eggs & their fry and requested not to release the silted water directly into the river and dispose it in a scientific manner to safeguard the fish and fauna of the river and it has further been mentioned that the water was not being released and there was not a single drop of water to 500 mtrs. stretch of Lambadug/Uhl river which will for sure affect the migration of Trout Fish to their breeding grounds (i.e. small

rivers/Nallah). The directions were sought to release the adequate amount of water for the fish migration.

22. Respondent No.6 on 05.12.2024 (**Annexure R-4**) therein responded that the de-silting was always carried out during the lean season and there was no generation loss to the nation and the work of de-silting cannot be delayed and the de-silting would be completed over the span of 2-3 months instead of 15-20 days and the minimum of 15% of discharge of the lean season would be done through Barrage gate like every year and 20 cusecs of additional water were also to be given.

23. The Assistant Director Fisheries, Fisheries Division, Mandi, Himachal Pradesh vide letter dated 06.12.2024 (**Annexure R-6**) had requested that the work be carried out during the rainy season to minimize the damage and to ensure that the fishery resources are not harmed in any manner while highlighting that trout breeding, a closed season is from November to February, 2020 under the Himachal Pradesh Fisheries Act, 1976 (hereinafter referred to 'Act, 1976'), by quoting the relevant Rules. It is relevant to notice that vide notification dated 19.05.2020 in exercise of the powers conferred under Section 3(B)(vi) of the 'Act, 1976', the Rules framed thereunder would go on to show that the river Uhl and

its tributaries in Mandi and Kangra District including balancing reservoir and feeder channels at Barot have been mentioned as "Trout waters" and it has been mentioned that no trout had to be caught by any person during the period from 1st November to last day of February each year and not more than four trout had to be caught in a day by the license holder.

24. On 21.01.2025 (**Annexure R-10**), the Assistant Director Fisheries, Fisheries Division, Mandi, Himachal Pradesh again wrote a letter to carry out the work of silting removal from the reservoir in a fully scientific manner and ensure that at least 15% of water is released into the Uhal river water on account of the breeding season for trout fish and the river had been dried up to 500 meters of the Lumbadag River. The fact that it was creating obstruction for the Trout Fish to reach their breeding grounds and was negatively affecting the natural trout breeding process was mentioned. The response on 27.01.2025 (**Annexure R-II**) as such was that the excess water has been released and during the work of de-silting no water was being taken for generation.

25. The show-cause-notice dated 07.02.2025 (**Annexure R-2/4**) was than by the Himachal Pradesh State Pollution Control Board and analysis results showed that the parameters as such were disturbed in the river and de-silting

has been done in the lean season in unscientific manner resulting in discharge of high Total Suspended Solids (TSS). The reply was given on 16.02.2025 (**Annexure R-2/5**) that the de-silting was not feasible in the other periods, the silt was being diluted with sufficient quantity of water and the work of de-silting was started from 05.12.2025 after making written intimations to all the concerned Departments.

26. Resultantly, order dated 07.04.2025 (**Annexure R-2/6**) came to be passed imposing the Environmental Compensation penalty amounting to Rs.12,00,000/- for violation on account of the TSS value in the downstream (TSS-2812.0 mg/l) as compared to the upstream value of (03 mg/l) and the fact that the minimum 15% of the discharge has also not been made.

27. The fresh order has been passed on 23.02.2026 and the order dated 07.04.2025 was set aside on the ground that the proper opportunity was not given for hearing and a fresh order has been passed by the Chairman of the Himachal Pradesh State Pollution Control Board by imposing the Environmental Compensation penalty amounting to Rs.12,00,000/-. The relevant part of the said order dated 23.02.2026 would go on to show that there is no dispute that

the de-silting was being carried out in the lean period. The said order reads as under:-

“Whereas the matter has been reconsidered wherein the reply/written submissions dated 13-8-2025 submitted by the unit has also been considered. The unit in its written submissions has stated that de-silting is mandatory to keep the reservoir clean and functional which was carried out in lean season as it is not feasible in other period. It is also stated that de-silting was carried out in accordance with the guidelines and at the cost of power generation.

Whereas as per the recommendations of the Joint Committee de-silting should be meticulously scheduled for the part of year which shall be conducive to all the stakeholders like fisheries department, IPH Department, agriculture and State Pollution Control Board so that breeding season of trout, other technical and social aspects are safeguarded event if it is at the cost of power generation capacity of the plant.

Whereas the State Board had directed the unit not to carry out de-silting particularly in lean period. However, it is observed that recommendations of the Joint Committee constituted in CWPIIL 57/2018 and directions issued by the State Board for adopting the preventive measures to maintain the environment, ecology and aquatic life of the concerned river/water body have not been complied with by the unit during de-silting process.

Whereas a CWPIIL 1/2025 titled as Court on its own motion Vs. State of HP & Others is also pending before the Hon'ble High Court of HP regarding unscientific disposal of silt and maintaining of minimum flow of water by the M/s Shanan Power House, HEP wherein vide order dated 27.11.2025 State Board has been directed to do the needful/take a decision w.r.t. Environment Compensation before next date of hearing i.e. 24-2-2026.

Whereas the facts stated above tantamount to violation of the provisions of Water (Prevention and Control of Pollution) Act 1974 and directions of the Hon'ble NGT in OA No.593/2017 titled as Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Others.

In view of above stated facts and in supersession to the previous order No.PCB/RO mandi/264466/M/s Shanan HEP Ltd./2025/-373-76 dated 7-4-2025 and in exercise of power conferred under section 33-A of Water Act 1974 an Environmental Compensation of Rs.12,00,000/- only (Rupees Twelve Lakh only) for the violation period from 30-12-2024 to 7-2-2025 (as per methodology of Paryavaran Suraksha Samiti) is hereby imposed upon the **M/s Shanan Power House**, Hydroelectric Project which shall be deposited in the account of Member Secretary, HP State Pollution Control Board, Bank of Baroda A/s No.54140100001617 (IFSC Code BARBONEWSIM) within 7 days positively failing which action under the provisions of Water (Prevention) and Control of Pollution) Act, 1974 shall be initiated against the unit. The unit is directed to submit the receipt/compliance report to this office at the earliest."

28. A perusal of the reply filed by respondents No.1, 3 & 4 would go on to show that the plea had been taken that the work of removing silt from the reservoir was not being done in the rainy season but in the lean period and high silted water was flowing into the Uhl river. Trout angling licences have been issued by Fisheries Officer, Barot and for sustainable development of fisheries in Uhl tributary of Beas River and since 2021 about 76,000 fingerlings of Brown Trout and

10,000 fingerlings of Rainbow Trout have been stocked by the Fisheries Department of Himachal Pradesh.

29. The admitted stand as such of the project proponent respondent No.6 also would go on to show that the de-silting is being done during the lean period. The relevant paragraphs reads as under:-

"4. That further, it is most humbly submitted that the reservoir was emptied on dated 29/11/2024, to dry up the silt so that the maximum quantity of silt can be accessed after which the work of de-silting was started on dated 05/12/2024, that too after duly making written intimations to all the concerned departments which was completed on 12/2/2025.

5. That further it is most respectfully submitted that the work of de-silting is mandatorily to be executed in every alternate year or after every 2-3 years and the same was carried out in the past also, in the lean season of 2017-18, 2020-21. That too under the stringent monitoring of the Himachal Pradesh High Court, after following due process and procedure and nothing was found in earlier false complaints also.

6. That further it is submitted that the de-silting work has to be executed in lean season so that there is no generation loss to the nation. The work of de-silting cannot be delayed because this may lead to more silt accumulation resulting in decrease of volume of reservoir and more silt ejected in the downstream of reservoir. The accumulated silt in reservoir also lead to wear and tear of valve mechanism and machines of Power House, ultimately affecting the generation and other environmental impacts."

30. A perusal of the above would go on to show that it is apparent that the reservoir itself was emptied and the de-

silting process has been done during the lean period which is the grouse as such of the residents of the area and the drying up the river below the dam.

31. The affidavit of respondent No.2 also substantiates that due to de-silting, the TSS (Total Suspended Solids) had arisen from 3.0 mg/L to 2812.0 mg/L beyond the permissible limit of 100 mg/L and therefore, it is apparent that the dumping of silt was being done in an unscientific manner in violation of the earlier directions issued by this Court.

32. The principle of polluter theory as laid down by the Apex Court would thus come into play and keeping in view the admitted facts and the consistent reports as such of the experts that de-silting has to be done in the manner which is conducive so that the marine life is not adversely affected which is openly being violated.

33. Respondent No.6, however, apparently in its endeavour as such for maintaining the reservoir has gone on to continue with the de-silting process irrespective of the damage which is being caused to the ecology and the marine life downstream on account of their own commercial convenience, which is an act which cannot be thus countenanced or defended in any manner.

34. Article 51-A of the Constitution of India lays down the fundamental duties and under sub Clause (g), it is the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.

35. The Apex Court in ***M.C. Mehta Vs. Kamal Nath and Others (2000) 6 SCC 213, Indian Counsel for Enviro-Legal Action Vs. Union of India (2011) 8 SCC 161, Sterlite Industries (India) Limited and Others Vs Union of India and Others (2013) 4 SCC 575*** and ***Electrosteel Steels Limited Vs. Union of India and Others (2023) 6 SCC 615***, has held that the remedial environmental compensation has to be paid by the polluters.

36. In ***M.C. Mehta's*** case (supra), while dealing with the issue of "POLLUTER PAYS PRINCIPLE" the Apex Court came to the conclusion that M/s Span Motel Private Limited had interfered with the natural flow of river and thus disturbed the environment and ecology of the area.

37. In ***Indian Counsel for Enviro-Legal Action*** case (supra) the Apex Court has held that the sufferings and woes of people living in the vicinity of chemical industrial plants in Udaipur District of Rajasthan being subject matter of consideration, since the toxic untreated waste waters were

allowed to flow out freely and keeping in view the rule in ***Ryland Vs. Fletcher (1868) LR 3 HL 330*** that persons responsible for the mischief which is kept on the land and collected and if it escapes and resultantly it came to the conclusion that applicant was in the business of to earn money and increase profits and therefore had imposed costs of pay Rs.37.385 crores along with compound interest upon the applicant-industry as it had not taken effective remedial steps.

38. In ***Sterlite Industries (India) Limited*** case (supra), the issue regarding the closure of the plant which exceeded Rs.50 crores and compensation of Rs.100 crores was directed to be deposited in the Nationalized Bank and the interest was to be spent on suitable measures for improvement of the environment, including water and soil, of the vicinity of the plant of the appellants after consultation with the State Pollution Control Board.

39. Lastly, in ***Electrosteel Steels Limited*** case (supra) integrated steel plant at Bokaro District in Jharkhand employing over a 10,000/- employees and causing pollution and consequential deterioration of environment was subject matter of consideration which was set-up on 1350 acres of land. Resultantly, the "POLLUTER PAYS PRINCIPLE" was kept

in mind while interfering with the interim order passed by the High Court.

40. Therefore, the remedial environmental compensation has to be paid by the project proponent who is responsible for the discharge of the silt from its dam waters.

41. In such circumstances, we are of the considered opinion that necessary directions thus accordingly have to be issued to the project proponent to ensure that the trout fish in the Barot dam and the two rivers in question Uhl and Lambhadagh survive. The interests of the generation capacity of the unit has to be as such that are to be safely balanced with the marine life and at the cost of the de-silting as such of the project, the respondent cannot take defence. It was for them to have consistently de-silted the reservoir over a period of time and it is on account of their own negligence that they have led the silt as such to accumulate over the period of years and not made any attempt as such to de-silt earlier and in a “knee-jerk reaction” over a period of one month as such to desilt has affected the marine life downstream apart from the fact that the TSS levels have gone up out of control from the permissible limits of 100 mg/L to 2812.0 mg/L, whereas upstream, the water is crystal clear and the TSS value is 3.0 mg/L.

42. Resultantly, we direct as under:-

(i) That respondent No.6 shall not do any de-silting on the site in question before 1st March of every year.

(ii) When the said process is being done, efforts will be made to install sensors as such to below the scoure outlet and at least two three points downstream to retain the data as to what is the TSS discharge and maintain the recourse.

(iii) The Department of Fisheries would inspect the release of quantum of 15% of the minimum discharge as directed by the National Green Tribunal (NGT) during the lean period and respondent No.6 would not hoard the water.

(iv) The State shall make efforts to constitute a River Monitoring Committee which will be chaired by the Deputy Commissioner alongwith the Senior Officer of the Fisheries and the Electricity Department and one from the Project proponent and give necessary advise as to how the de-silting is to be done and for other portions of the year and whether it should be done during the day or there should be further restrictions for other projects also where trout fish abounds and breeds.

(v) Keeping in view the damage which has thus been caused and the replenishment of the marine life of the river as such would be required. We direct the project proponent as such to deposit a sum of Rs.12,00,000/- with the Department of Fisheries who shall stock the river with Brown Trout and Rainbow Trout in graded manner over the next years by using the said funds.

(vi) It will be open to the Department to also utilize the said money for further enhancing the marine life in the said river by giving the details as to how the utilization has been done. The said utilization certificate as such shall be furnished at the level of the Assistant Director (Fisheries). The

details of such restocking will be furnished to this Court on a regular/six monthly basis.

43. We also leave it to open as such to respondent No.6 to agitate against the final order dated 23.02.2026 of the Himachal Pradesh State Pollution Control Board before the Appellate Authority as the right of appeal is a statutory right which would not at this stage be taken away by virtue of the directions, we have issued. It is on the basis of the admissions, we had found that in spite of the recommendations made during the lean season, de-silting was being carried out and respondent No.6 has thus carried out the de-silting solely for the economic gain as such of the project.

44. It is settled principle that economic consideration will not prevail over the environmental rights as such. Resultantly, we adjourn the proceedings for **31.07.2026** and by that time necessary compliance affidavit accordingly be submitted.

(G.S. Sandhawalia)
Chief Justice

(Bipin Chander Negi)
Judge

8th April, 2026

(C.M. Thakur/Munish Thakur)