

**Court Matter/Time Bound
By FAX – E.Mail**

No. IPH-Vig.-CWP No. 8157./2011- 2801-3561

Government of Himachal Pradesh

Irrigation-cum-Public Health Department

To

All the Chief Engineers,

All the Superintending Engineers,

All the Executive Engineers,

All the Assistant Engineers,

All the Junior Engineers

Under H.P. I&PH Department, Shimla.

Dated Shimla the _____ of 25 October, 2011.

Subject: - Instructions regarding misuse/ deployment of labourers on personal work.

It has been brought to the notice of Hon'ble High Court of Himachal Pradesh in CWP No. 8157/2011 titled as Guman Singh V/s State of H.P. that some of the officers of the Horticulture Department and other department are using the services of class-IV workers for their personal purposes in their orchards/ farm houses / floriculture / sericulture etc and the Hon'ble High Court has ordered vide order dated 18.10.2011, that the other departments, including Engineer-in-Chief, IPH to file affidavit in this respect. A copy of order passed by the Hon'ble High Court of H.P. on dated 18.10.2011 is enclosed herewith for strict compliance. The matter has been viewed seriously and the following instructions are issued for strict compliance by the field officers:-

- the services of any labour or class IV workers or any other officer/ official are not used by any officer/ official posted in the field offices for their personal use in their orchard / farm houses floriculture/ sericulture etc owned

and possessed by official / officers in their name or in the name of their family members.

2. the deployment of labour/ class –IV employees or any other official/officer are only made on the work against which they are paid from and there is no deployment of workers on any other work or any other specified work without prior permission of his superior officers.
3. the senior officers like S.E. / E.E. shall conduct surprise checks and also ensure that there is no misuse of labour except for the authorized work.

You are, therefore, requested to please ensure compliance of above instructions in letter and spirit and any breach will be viewed seriously.

Kindly acknowledge receipt of these instructions and Zonal offices may send status report monthly.

Encl. As above.

Sd/-
Engineer-in-Chief,
H.P. I&PH Department,
Shimla-171001

Copy to Principal Secy.(IPH) to the Govt. of H.P. Shimla for information please.

Copy alongwith a copy of order dated 18.10.2011 is forwarded to Dy. Director (Law)/ Joint Controller (F&A)/ Registrar / Assistant Controller (Bud.)/ Supdt. Gr-I/ Law Officer Supdt. G-II under IPH Department for information and similar necessary action.

Encl. As above.

Sd/-
Engineer-in-Chief,
H.P. I&PH Department,
Shimla-171001.

Copy of order/judgment/Statement/passed delivered/recorded on 18-10-11 by the Division Bench consisting of Hon'ble Mr. Justice Kurian Joseph, Chief Justice, Hon'ble Mr. Justice Sanjay Karol, Judge.

CWP No. 8157/11 titled as

Guman Singh, S/O Sh. Vija Ram, R/O village Nohradhar, Sub Teshil Nohadhar, Distt. Sirmour, H.P.

--Petitioner

Vs.

1. State of H.P. through Secretary(Horticulture) to the Govt. of H.P. Shimla-2.
2. The Director of Horticulture, H.P. Shimla-2.
3. Sh. Suresh Katoch, Deputy Director of Horticulture, Distt. Sirmour, at Nahan, H.P.
4. In charge PCDO Nohradhar, Distt. Sirmour, H.P.

Respondents

COPY OF ORDER/JUDGMENT/STATEMENT(S) RECORDED/ISSUES IN THE HIGH COURT OF HIMACHAL PRADESH .

Authenticated

Continued order sheet

Date

order

CWP No. 8157 of 2011

18-10-2011

Mr. Hamender Chandel, Advocate for the petitioner.

Mr. R.K. Bawa, Advocate General with Mr. Ankush Dass Sood, Additional A.G. and Mr. Shubh Mahajan, Dy. A.G. for the respondents No. 1,2,4 and 5.

On 16-09-2011 this court had passed the following order.:

" The Additional Director General of Police (Vigilance) will stand impleaded as the additional 5th respondent. There will be direction to the 5th respondent to forthwith conduct an appropriate inquiry and submit the report to this court in a sealed cover in respect of the allegations made in the writ petition against the third respondent. He will also get such an inquiry, generally in government service and particular in Horticulture Department, conducted in respect of orchards which are said to be owned by the officers under the second respondent and whether the government employees are engaged in such orchards post on 30-09-2011.

2. In the meanwhile, the petitioner shall not be compelled to join the transferred station and it will be open to him to avail leave of kind due."

2. The matter was taken up on 11-10-2011, Sh. Mandan Lal has brought in the notice of the Court that he had conducted an inquiry into the matter and the allegations were found to be not proved Ms. Babita, Dy. S.P. (Vigilance) at Nahan is also present before us, who had also been associated for the enquiry by the Additional Director General of Police(Vigilance) and on whose enquiry , the Additional Director General of Police(Vigilance) had forwarded the earlier report dated 11-10-2011. Since the court was not satisfied as to the inquiry conducted by the officers, the Additional Director General of Police(Vigilance) was directed to look into the matter himself. Today, the Additional Director General of Police(Vigilance) has made available the report to this court, wherein it is stated that the inquiry reveals that Class-IV employees, who are working under the 3rd respondent, have actually been deputed for work in the orchard owned and maintained by his wife in the vigilance branch of the police, the public and the courts especially put a higher level of credibility. We refrain from making any further observations in this case since we are directing the Additional Director General

of Police(Vigilance) to view such casual approach on the part of the others in the Vigilance Wing seriously and give them appropriate instructions, motivation, training and such appropriate steps to strengthen the Vigilance Branch.

3. Sh. Gurdev Singh, Director of Horticulture is present before us though in connection with other case. We have brought to his notice report of the 5th respondent, the Additional Director General of Police(Vigilance), wherein it is stated that some of the Class-IV employees working under the 3rd respondent have been actually working in the private farm owned by his wife. The Director of Horticulture submits that the 3rd respondent has already been transferred from Distt. Sirmour. It appears that this is not an isolated case of misuse and abuse of power by the officers. There will be a direction to the 2nd respondent , Director of Horticulture to file an affidavit in the following grounds:-

1. Whether the officers working under him are otherwise also being their orchards, farms, floriculture, sericulture activities carried on and owned or managed by the members of the families of such officers and whether such officers have been posted in those Divisions; and

II Has it come to the notice that the services of any of the Class-IV employees have been used in such private farms owned by the members of the families of the officers under the department.

4. During the course of hearing in this case, it has also come to the notice of the Court that there are such unwholesome practices in the Departments of Forests, PWD, IPH, Agriculture and Animal Husbandry. There will be direction to the Principal Chief Conservator of Forests, H.P., the Engineer-in-Chief(PWD), The Engineer-in-Chief,(IPH), the Director of Agriculture and Director of Animal Husbandry, who shall stand impleaded as the additional 6th,7th,8th,9th and 10th respondents respectively to file affidavits in terms of particulars referred to above, which are sought from the Director of Horticulture. It shall also be stated in all the affidavits as to what corrective steps have been taken, when such instances have come to the notice of the officers concerned and what steps are to be taken to prevent such misuse and abuse of power by the officers. The affidavits as above shall be filed within a month.

5.. The Director of Horticulture in the affidavit shall also furnish particulars as to whether in any part of the State any plants have been purchased from the Nursery run by the wife of the 3rd respondent, since according to the information, so

far gathered by him, there has been no such instance.

6. Post on 28-11-2011 along with the affidavits to be filed by the respondents as earlier directed.

A duly authenticated copy of this order be supplied to the parties.

Sd/
Kurian Joseph. CJ.
Sd/-
Sanjay Karol, J

October 18,2011