

ITEM NO.32

COURT NO.9

SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (C) No.19426/2025

[Arising out of impugned final judgment and order dated 02-07-2025 in CWP No. 10506/2025 passed by the High Court of Himachal Pradesh at Shimla]

M/S PRISTINE HOTELS AND RESORTS PVT. LTD.

Petitioner(s)

VERSUS

STATE OF HIMACHAL PRADESH & ANR.

Respondent(s)

IA No. 167942/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 167944/2025 - EXEMPTION FROM FILING O.T.

Date : 28-07-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE R. MAHADEVAN

For Petitioner(s) : Mr. PS Patwalia, Sr. Adv.
Mr. Kushagra Goyal, Adv.
Mr. Alok Tripathi, AOR

For Respondent(s) : Mr. Navin Pahwa, Sr. Adv.
Mr. Anup Rattan, Advocate General
Mr Vaibhav Srivastava, AAG
Mr. Puneet Rajia, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. The petitioner herein is a Private Limited Company engaged in

the business of hotels and resorts.

2. The petitioner preferred a writ petition under Article 226 of the Constitution before the High Court of Himachal Pradesh seeking the following reliefs:-

A) That this Hon'ble Court may be pleased to issue a writ of certiorari quashing impugned notification dated 06.06.2025 whereby Shri Tara Mata Hill has been declared as a Green Area in Totally in contravention of Section 19 & Section 20 of the TCP Act, 1977.

B) That this Hon'ble Court may be pleased to issue writ of mandamus directing the respondents to produce the entire records pertaining to the present case."

3. Thus, the subject matter of challenge before the High court was a Notification dated 06.06.2025 issued by the Government of Himachal Pradesh, Town and Country Planning Department. The Notification reads thus:-

**"GOVERNMENT OF HIMACHAL PRADESH TOWN AND
COUNTRY PLANNING DEPARTMENT**

No.TCP-F05/4/2022 Dated Shimla-171002, 06-06-2025

NOTIFICATION

WHEREAS, the draft amendments in the Development Plan for Shimla Planning Area, notified vide Notification No. TCP-F05/4/2022, dated 20-06-2023, were published by the Director, Town and Country Planning Department, Himachal Pradesh under sub-section (1) of Section 19 of the Himachal Pradesh Town and Country Planning Act, 1977 (12 of 1977) read with rule 11 of the Himachal Pradesh Town and Country Planning Rules, 2014, vide Notice No. HIM/TP/PJT/AZR-Shimla/2023/Vol-I/8683-8706, dated 03-02-2025, in the Rajpatra (e-Gazette) Himachal Pradesh on 06-02-2025 for inviting objection(s) and suggestion(s);

WHEREAS, objections/suggestions were received by the Director, Town and Country Planning Department within the stipulated period which were duly considered and modifications were made in the draft rules. The draft amendments in the said Development Plan have been submitted to the State Government for approval in term of provisions as contained in sub-section (2) of the Section 19 of the Himachal Pradesh Town and Country Planning Act, 1977;

AND WHEREAS, the said draft amendment rules submitted by the Director, TCP have been duly considered by the State Government and the same has been rejected; and

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of Section 20 of the Himachal Pradesh Town and Country Planning Act, 1977 (Act No. 12 of 1977), the Governor of Himachal Pradesh is pleased to make the following amendments to the Development Plan for the Shimla Planning Area, namely:

—

AMENDMENTS IN CHAPTER-17

In Chapter-17 of the Development Plan for Shimla Planning Area following amendments are carried out namely:—

1. In sub-regulation 1 (3) of regulations 17.2 “Green Areas” after Sr. No. (xxv), following one new Green areas /belt shall be inserted, namely:—

xxvi. SHRI TARA MATA HILL GREEN AREA

The boundary of Green Area starting from Shoghi at NH-05 near the building of Sh. Rajender (Adjoining Food Plaza and Tyre Retreat building), then going straight uphill till the Shoghi-Mehli Road, excluding the existing buildings and their premises. Further, following the Shoghi-Mehli Road towards Mehli side upto Railway over-bridge. Further following the Kalka-Shimla Railway Track from this over-bridge towards Tara Devi Railway Station upto entry point of Tunnel No. 91. Further going along a straight line from entry point of tunnel no. 91 to Junction of Nh-05 and

Totu/Airport bypass road by crossing the hill between Railway line and NH-05. Further following NH-05 towards Shoghi upto the starting point near building of Sh. Rajender.

2. In sub-regulation 2(4) of Regulation 17.2 "Green Belts", after clause (b) following new regulation (c) shall be inserted, namely:-

(c) In the green area number xxvi, no new private construction shall be allowed except re- construction on old line and addition and alteration in the existing building with prior approval of the State Government. The construction activities pertaining to Shri Tara Mata Complex if any, to be carried out by the trust shall be allowed with prior approval of the State Government.

3. The above amendments shall come into operation from the date of publication in the Official Gazette."

4. The plain reading of the Notification, referred to above, would indicate that certain areas referred to in the Notification have been declared as green area. Once any particular area is declared as a green area, there is a restriction insofar as construction etc. is concerned. What we have been able to understand from the petitioner herein is that he wants to put up a resort and the Notification referred to above is coming in his way.

5. The High Court declined to entertain the writ petition on the premise that it is not open for the petitioner to question the Notification, referred to above, as the petitioner could not be said to be an aggrieved person. The reason for the High Court to

say so is because the petitioner as a Private Limited Company has not acquired any right or interest to purchase land within the State of Himachal Pradesh.

6. In other words, what is sought to be conveyed by the High Court is that the petitioner has yet to seek permission from the authorities of the State for purchasing the land, in question.

7. Be that as it may, we are not inclined to interfere with the impugned judgment and order passed by the High Court.

8. However, at this point of time, we would like to say something in the larger interest of the State of Himachal Pradesh and its inhabitants.

9. The obvious reason for issuing the Notification which was made a subject matter of challenge before the High Court was to curb the construction activities etc. in a particular area.

10. The object of issuing such notifications declaring certain earmarked area as green areas is definitely a laudable object but we are afraid to say that it is too late in the day for the State to issue such notifications and try to save the situation. The situation in the State of Himachal Pradesh has gone from bad to

worse. The severe ecological imbalance and other environmental conditions have led to serious natural calamities over a period of years. This year also hundreds of people perished in the floods and land slides & thousands of properties got destroyed. The nature definitely is annoyed with the activities which are going on in the State of HP.

11. It is not right to blame only nature for the disaster in Himachal Pradesh. Humans, not nature, are responsible for phenomenon such as continuous land sliding of mountains and soil, land-slides on roads, collapsing of houses and buildings, subsidence of road etc.

12. According to the experts and various reports the major causes of destruction in the State of Himachal Pradesh are Hydro Power Projects, four lane roads, deforestation, multi-storey buildings etc. The State of HP is nestled in the lap of the Himalayan mountains. It is important to seek the opinion of Geologists, Environmental Experts and local people before any development project is undertaken here.

13. Nature has given abundant beauty to the State of HP. It's

emerging high mountains, diverse flora and cool climate attract tourists from far away places. Taking advantage of this natural beauty, Government started constructing four lane roads to promote it as a tourist destination. To build these roads heavy machinery and explosives materials were used according to various reports to cut the mountains due to which the natural balance of the place has started to deteriorate.

14. With forests encompassing more than 66% of the total land area, Himachal Pradesh is renowned for its abundant beauty and greenery. But the danger to this natural richness is growing as a result of human greed and apathy. There are numerous environment-related issues, direct or indirect, facing the State of HP. Because of its delicate mountainous geography, the State is at risk for earthquakes, flash floods, and landslides. With projects like Bhakra, Nathpa Jhakri, and several other projects set up on major rivers, i.e. Beas, Sutlej, Chenab, Ravi, Yamuna, both in the public and private sectors, it is also a major hydroelectric power hub that makes a substantial contribution to India's renewable energy. But unrelenting building, tunnel, and road construction, frequently done without sufficient environmental planning, has increased the area's susceptibility to natural disasters and the effects of

climate change. Ecological diversity and growing human demands necessitate immediate sustainable planning and conservation measures.

15. Himachal Pradesh is often referred to as the "Power State" of India due to its significant hydropower potential. While this form of energy is renewable and low-carbon, the large-scale construction of dams, reservoirs, and tunnels comes with considerable environmental costs. Blasting for tunnels destabilises slopes, river diversions affect aquatic ecosystems, and the impoundment of water changes sediment flow. In addition, the cumulative impact of multiple projects in the very same river basin is often overlooked in environmental assessments. Communities living near such projects frequently report water scarcity, landslides, and even structural cracks in their homes, raising concerns about the social as well as environmental consequences of hydroelectric expansion. Apparently, the minimum outflow of water, as is contractually mandated, is not being adhered to by the project proponents, resulting in the vanishing of aquatic life. In fact, the mighty trans Himalayan river Sutlej stands reduced to a rivulet.

16. Climate change is having a visible and alarming impact on

Himachal Pradesh. While Climate change defies categorisation, and has its impact on many of the problems listed, it is more than sufficient of a problem on its own to be documented separately and not as an additional factor to the other aspects. The State has been witnessing rising average temperatures, shifting snowfall patterns, and an increase in the frequency and intensity of extreme weather events. Glaciers, the primary source of many rivers in the region, are retreating at a concerning rate, raising the risk of Glacial Lake Outburst Floods. The biggest Bara Shigri glacier in Lahaul Spiti has been reduced by almost 2-2.5kilometers. Unseasonal rainfall and prolonged dry spells affect agriculture and water availability. Erratic weather patterns also destabilize slopes and affect biodiversity. These changes threaten not only the environment but also the livelihoods of local communities dependent on farming, horticulture, and eco-tourism Deforestation and forest degradation are major concerns. Forest fires, encroachments, overgrazing, and the expansion of agricultural and urban areas are all contributing factors. All development-related projects often result in tree felling and habitat fragmentation. Loss of forest cover not only reduces biodiversity but also weakens the soil, increasing the risk of landslides and erosion. Forests in Himachal also play a vital role in regulating local climate, sequestering

carbon, and maintaining the water cycle, making their protection essential for the region's ecological balance. This situation has been exacerbated by the removal of forest guard check posts earlier set up at various places within the State. Removal of such posts, even at the inter-district level, has compounded the problem of illegal felling of trees, which appears to be rampant, as evident in the recent cloud bursts in District Kullu & Manali, and now there is no mechanism of control and checks on the exploitation of this precious resource.

17. The pace of infrastructure development in Himachal Pradesh has intensified in recent years, driven by the twin goals of connectivity and tourism. Projects like four-lane highways, ropeways, tunnels, and urban expansions often bypass environmental safeguards. In many cases, hill slopes are cut steeply, unscientifically, without adequate stabilization measures, and natural watercourses are obstructed or diverted. This not only alters the local hydrology but also makes the terrain more vulnerable to landslides and flash floods. The 2023 and 2025 monsoon season, for example, saw widespread devastation in the Kullu, Mandi, Shimla and Chamba districts, partly attributed to such unscientific construction. Despite having been an

environmentally rich state, its own people are today responsible for such blind pursuit of development, to their own detriment. It is a classic example of not knowing your own surroundings. Tourism, especially religious and nature tourism, is a major source of income in Himachal Pradesh. However, the uncontrolled growth of tourism has strained the State's environment. During peak seasons, the influx of tourists results in traffic congestion, waste generation, noise pollution, overuse of water resources, and encroachment into ecologically sensitive areas. Hill towns often struggle with waste disposal and water shortages during tourist seasons. Every step of the waste management process presents difficulties for the State. Seldom is source segregation implemented, resulting in mixed trash that is more difficult to handle. Informal dumping is prevalent in smaller towns and rural tourist destinations, where collection mechanisms are erratic. The ultimate disposal of garbage frequently entails open burning or improper landfilling, which increases pollution and poses health hazards. Because it is expensive and logistically challenging to bring garbage downstream for treatment or disposal, high-altitude tourism zones confront particular difficulties. Sustainable solid waste management, with an emphasis on localised segregation, community awareness, and decentralised processing, is crucial to

safeguarding the delicate Himalayan ecosystem since tourism is only predicted to increase. Not only at the implementation stage, but also the rules that can be enforced, lag behind. The legislation governing municipalities which of course are responsible for waste collection and management, are not up to date and in sync with the Waste Management Rules 2016. That being said it is also worth studious examination as to whether in the last nine years the Waste Management Rules has sufficiently addressed the issues arising there. Many hotels and homestays are constructed on unstable slopes or in landslide-prone areas, in an attempt to cater to this increasing tourism, and also, to generate employment, without proper zoning or environmental clearance. If left unchecked, the pressure from tourism could severely undermine the ecological and social fabric of the State.

18. For instance, travel to the Rohtang valley has taken on a nightmarish feel given the unchecked traffic on the treacherous roads, the resultant vehicular emissions causing difficulties in maintaining an already thinning atmospheric presence given height and also the early melting of snow. Another example is that trekking is an increasingly popular undertaking by many nature enthusiasts however there is no mechanism in place to ensure the

management of basic need of the trekkers nor waste generated during such undertakings.

19. The Himalayan region given its peculiarities presents unique set of challenges which requires the optimum utilization of local expertise and understanding of the socio-cultural mileau in which the contemporary challenges of climate change etc. are arising and being further aggravated. There is a need for all Himalayan states, pan India to collate resources and expertise so as to ensure that development plans are cognizant of these challenges.

20. Certain districts within the State of Himachal Pradesh have been accorded special status under the Special Area Development Authority, and pursuant thereto, a green tax has been imposed. The utilization of the money generated thereof requires to be monitored for achieving the desired results; without the same being diverted for extraneous purpose.

21. Despite the state government's legislation to control mining and quarrying, illicit or inadequately regulated operations nevertheless take place, especially close to road construction sites and riverbeds. The mining of stone, sand, and gravel

destabilizes the terrain, raises the risk of erosion, and can even impact the structural integrity of neighbouring roads and structures. Unregulated mining also affects local ecosystems and pollutes water sources. Because of the noise, dust, and environmental damage that these activities create, local populations have demonstrated against them in several places. Addressing this issue in a sustainable manner requires both offering alternate sources of income and stepping up the enforcement of environmental regulations.

22. All that we want to convey today is that it is high time that the State of HP pays attention to what we have observed and starts taking necessary action at the earliest in the right direction. The Union of India also owes an obligation to see that the ecological imbalance in the State does not get further disturbed and natural calamities do not occur. Of course much damage has been caused but there is a saying that "something is better than nothing".

23. When this matter was being heard, the learned Advocate General of the State also appeared and he fairly conceded to the fact that the State has failed to pay attention to what has fallen from this Court.

24. We want to impress upon the State Government and Union of India respectively that earning revenue is not everything. Revenue cannot be earned at the cost of environment and ecology. If things proceeds, the way they are as on date, then the day is not far when the entire State of HP may vanish in thin air from the map of the Country.

25. God forbid this doesn't happen.

26. Therefore, it is of utmost necessity that adequate steps are taken at the earliest in the right direction.

27. We close this litigation so far as the main matter is concerned i.e. the challenge by the petitioner to the impugned judgment and order passed by the High Court. The petition stands dismissed. However, in larger public interest, we would like to keep this matter alive so far as the issues relating to ecology and environmental conditions prevailing in the State are concerned. The Registry is directed to register a Writ Petition in public interest in this regard.

28. In such circumstances, we call upon the State of Himachal Pradesh to file its response to what has fallen from us more particularly the issues which we have discussed in the preceding parts of this order.

29. We expect the State to file an appropriate reply explaining whether they have any action plan to meet with the issues we have discussed and what do they propose to do future.

30. Issue notice to the State for this limited purpose, returnable within 4 weeks. By the next date, we want an appropriate report from the State.

31. Registry shall forward one copy of this order at the earliest to the Chief Secretary, State of Himachal Pradesh. One copy shall also be forwarded to the Principal Secretary, Ministry of Environment, Forest and Climate Change, Union of India.

32. Registry shall notify the matter before this Bench after obtaining appropriate order from Hon'ble the Chief Justice of India.

33. Post it for the hearing on 25.08.2025 on top of the board.

(CHANDRESH)
ASTT. REGISTRAR-cum-PS

(POOJA SHARMA)
COURT MASTER (NSH)