

28

IN THE HIGH COURT OF SIKKIM

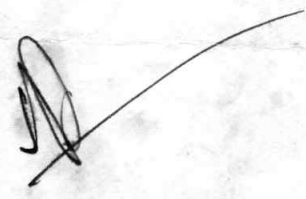
WRIT PETITION No. 24 OF 2000

Date of hearing : 20th August 2001.

Date of Decision : 10th September 2001.

COURT ON SUO MOTU -----

1. Jigm i N. Kazi
Editor
Sikkim Observer
Gangtok.
2. Secretary
Urban Development & Housing Department
Government of Sikkim
Gangtok.
3. Secretary
Irrigation Department
Government of Sikkim
Gangtok.
4. Secretary
Forest Department
Government of Sikkim
Gangtok.
5. Principal Director
Health & Family Welfare Department
Government of Sikkim
Gangtok.



29

6. Secretary
Land Revenue Department
Government of Sikkim
Gangtok.
7. Chief Engineer
Project Swastik
Gangtok.
8. District Telecom Manager
Telecom Department
Gangtok.
9. Secretary
Environment & Pollution Board
Gangtok.
10. Chief Secretary
Government of Sikkim
Gangtok.
11. Secretary
Rural Development Department
Government of Sikkim
Gangtok.
12. District Magistrate
West District
Gyalshing.
13. Principal Chief Engineer-cum-Secretary
S.P.W.D. (Roads & Bridges)
Government of Sikkim
Gangtok.
14. Director General of Police
Police Headquarters
Gangtok.



15. Secretary
Home Department
Government of Sikkim
Gangtok.
16. Superintendent of Police
West District
Gyalshing. ... Respondents.

Coram :
Hon'ble Mr. Justice Anup Deb, Judge.

Present: Mr. S.P. Wangdi, Advocate General with
Mr. J.B. Pradhan, Government Advocate for
the State.

Mr. S.P. Subba, District Collector (West) in
person.

Mr. Jigme Dorjee Denzongpa, Law Officer,
Police Department in person.

Mr. Dawa Samdup, Joint Secretary, Land
Revenue Department in person.

Mr. O. Lucksom, Additional Director,
Department of Mines & Geology in person.

Mr. Tshering Tashi, Joint Director,
Department of Mines & Geology in person.

Mrs. Vidya Subba, Deputy Secretary, U.D.
& H.D. in person.

JUDGMENT

DEB. J.

This writ petition was registered on 18th April 2000 by the Court suo motu on the basis of a news paper report published in Sikkim Observer on Saturday, April 15 - 21, 2000 under caption "**Gangtokians deserve safer and healthier environment**". Some of the important portions of the report are reproduced below: -

Despite the formation of the Civil Defence Organisation several years back the State capital is still far behind in ensuring a better and more healthier environment for its residents. But the ground reality is that no one takes note of the organisation. The orders of the district collector, who heads the Civil Defence, to clean up the mess in some areas in the town have not been followed by both the residents and the concerned departments. As a result, Gangtok is beginning to look shabby and dirty. It is also stated that because of police intervention at the present there are now no hawkers with their temporary shops in the streets. Most of the hotels and eating joints located on the upper portion of the M.G. Marg do not have proper toilets and drainage

system. The sewerage system in these areas would send visiting tourists scurrying back to where they belong – to the plains. The Health Department no longer makes any checkups in these areas to see the conditions of some of the eating joints. Congestion has also begun in Nam Nang where temporary toilets and pit sties still have not been removed from the drains. With the monsoon not very far away the *jhoras* have to be thoroughly inspected to ensure that further landslide do not occur in these areas. The June 1997 calamity could have been avoided had the authorities taken proper steps to construct and maintain the *jhoras*, drains and culverts in the capital. The news item also mentioned that in the night of June 8 due to the *jhoras* and drains being clogged up water flowed from Balwakhani right up to the Farooq pan dokan area and down the slope into Development Area.

2. Reports were called from Secretary, Urban Development and Housing Department, Government of Sikkim, Secretary, Irrigation Department, Government of Sikkim, Secretary, Forest Department and Principal Director, Health Department, Government of Sikkim. Principal Director, Health & Family Welfare Department submitted a report on 18th May 2000. He has stated in the report that Prevention of Food Adulteration Act, 1954 and Rules 1955 have been enforced in

33

Sikkim with effect from 1st August 1979 and the State Government has framed Sikkim Prevention of Food Adulteration Rules, 1991 in consultation with the Central Committee for Food Standards, New Delhi. The State Government has appointed Principal Director, Health and Family Welfare Department as Food (Health) Authority and Licensing Authority and the Director of Health Services as Local (Health) Authority. The State of Sikkim has been declared and notified as Local Area. The Public Analyst, State Public Health Laboratory, Guwahati has been appointed and notified as Public Analyst for the State of Sikkim and Senior Food Inspectors have been appointed. The State has no Food Testing Laboratory and all food samples collected in the State are being sent to Guwahati for analysis since 1988. It is also stated that while considering the necessity of having a full-fledged laboratory, the Government has put up a proposal for setting up a well-equipped laboratory in the State very soon. The proposal is under way with the Central Government for financial assistance from World Bank supported Public Health Food Quality Control (Food Safety) Project. It is stated that the State of Sikkim has one trained Public Analyst who after establishment of laboratory is capable of analysing all food samples collected in the

alt

State. In the past total of 380 food samples were collected and analysed and out of these 85-90 samples have been declared adulterated or substandard. It has been stated that a team comprising officials of Prevention of Food Adulteration Cell and Sanitation Wing of Health Department conducted massive inspection campaign with effect from 5th May 2000 for update and review the sanitation and hygienic condition of all eating establishments of Gangtok town and surrounding marketing centres. Guidelines regarding the improvement of the kitchen premises of hotels and all other such category establishments were served. Those who have failed to comply with the guidelines, have been instructed to update and maintain hygienic condition of their kitchen within the short span of time so that renewal of PFA (Prevention of Food Adulteration) Licence for the year 2000-2001 could be taken up of all existing establishments in particulars without any problem. It is fairly admitted by the Principal Director, Health and Family Welfare in his report that efforts made for massive inspection campaign is not upto the mark and despite of efforts for all round achievement the cooperation of hoteliers and sweetmeat shop owners ^{is} not upto the satisfaction of the Health Department. It is also fairly admitted that

Corrected
 with
 corrected
 22.12.2000
 J
 22/12/2001

Signature

after the inspection of some hotels and kitchen premises, the Principal Director of Health, viewed, that, those hoteliers whose kitchens were not found in hygienic condition were served with notices by the Health Department.

3. By filing an affidavit on 30th May 2000, the Principal CCF-cum-Secretary, Forest Department, Government of Sikkim stated that the contention of the media coverage are related with the duties and functions of the Department of Health and Urban Development and Housing Department and the Forest (Environment and Wildlife Section) Department has not been alleged to generate any activity to the deterioration in the environmental status of the Gangtok township. In the report filed on 19th June 2000 the Secretary, Land Revenue Department, Government of Sikkim stated that the Chief Engineer, Irrigation and Flood Control Department had requested the Land Revenue Department for release of funds amounting to Rs.2.90 lakhs from the Calamity Relief Fund for the purpose of clearing and cleaning Jhoras located in and around Gangtok and the request of the Irrigation Department was submitted for consideration by the State Level Relief Committee comprising of the Chief Secretary as Chairman, Additional Chief Secretary-cum-Development



36

Commissioner, Principal Secretary, Finance Department, Secretary to Chief Minister as members and the Land Revenue Secretary as the Member Secretary. The State Level Relief Committee did not agree to the release of funds for this work, as this did not result from any natural calamity and as such the work is a routine maintenance nature for which no relief is admissible from the Calamity Relief Fund and the Irrigation Department was directed to meet the fund required for such routine maintenance work from their normal budget provision. The Court vide order dated 20th June 2000 passed the following direction upon the Secretary, Irrigation and Flood Control Department, Government of Sikkim, respondent No. 3: -

“Issue notice upon Mr. Dinesh Pradhan, Secretary, Irrigation Department and upon Mr. Lobzang Bhutia, Secretary, Land Revenue Department to appear before this Court on 29-6-2000 to explain the discrepancy in paragraph 3 (b) of the counter-affidavit filed by Mr. Dinesh Pradhan, Secretary, Irrigation Department on 18-5-2000 and the stand taken by the Secretary, Land Revenue Department in his affidavit filed on 19-6-2000.

In the meantime, the Secretary, Land Revenue Department or the Secretary, Irrigation Department who is responsible to release fund, as the case may be, shall release fund for clearing and cleaning Jhoras by 25-6-2000 without fail and shall report by 27-6-2000.”



37

4. In compliance to the direction of (a) above, the Secretary, Irrigation and Flood Control Department filed a report on 27th June 2000 and it was stated that clearing and cleaning of jhoras do not fall within the normal function of the Irrigation Department in urban areas. In and around Gangtok and other urban areas in the districts, the responsibility of cleaning and clearing of jhoras is upon the Urban Development and Housing Department. Since the State Level Relief Committee has denied sanction of the necessary funds for the purpose of clearing and cleaning of jhoras, the department of Irrigation will not be in a position to render the services. With regard to responsibility to release fund for clearing and cleaning jhoras, it is replied that neither the Secretary, Land Revenue nor the Secretary, Irrigation Department is responsible for release of fund for clearing and cleaning jhoras. This is done by the Finance Department in the case of the funds being sought for from the usual consolidated fund from the State and the State Level Relief Committee in the case of the fund sought for from the calamity relief fund. It is further stated that all the jhoras in and around Gangtok have been inspected on 24th June 2000 under the Chairmanship of the Principal Secretary, Finance with the Secretary, Irrigation & Flood Control Department, Secretary,

38

Urban Development and Housing Department and other officers. It is further stated that in compliance to order of this Court, remedial measures suggested after the inspection are being taken by as decided by the Principal Secretary, Finance. In the report submitted by the Secretary, Land Revenue Department on 27th June 2000, he subsequently agreed to the stand taken by the Secretary, Irrigation Department. Vide order dated 29th June 2000, the Chief Engineer, Project Swastik was added as respondent No. 7. The Secretary, Urban Development & Housing Department, Government of Sikkim in the report dated 18th May 2000 has made mention of the responsibility of Chief Engineer, Project Swastik regarding clearing and cleaning of drains adjacent to National Highway and the Chief Engineer, Project Swastik was directed to submit a report. The following direction was given vide order dated 29th June 2000: -

“The matter is very urgent. It appears that on one plea or the other funds for clearing and cleaning of jhoras and drains have not been released. It is unfortunate that the State Level Relief Committee on some hyper-technical grounds refused the funds. It is a very sorry state of affairs. It is the primary duty of any State Government to see that life of the citizens is protected and if they fail to do so, it is against the principles of good governance and good administration. Several citizens lost their lives in June 1997 in the Gangtok city. The works of clearing and cleaning of jhoras and drains will have to be completed before onset of monsoon and heavy monsoon

JA

39

may strike the State at any moment and, therefore, the works of clearing and cleaning of jhoras and drains will have to be undertaken on war footing.

The Principal Secretary, Finance department is directed to release appropriate fund by 30.06.2000 without fail to undertake the works of clearing and cleaning of jhoras and drains within Gangtok for the present. Funds for rest of Sikkim where there is apprehension of loss of human lives for not clearing and cleaning jhoras and drains should also be released."

5. It was alleged by the Chief Engineer, Project Swastik that the Telecom Department has not kept its assurance and they have not cleaned the drains as assured. Vide order dated 5th July 2000 it was directed that whichever department will be found responsible for cleaning the drains, shall undertake works of cleaning and the same shall preferably be completed by next Sunday. Vide order dated 15th July 2000 the District Collector, East was directed to submit a report on 17th July 2000 in details indicating the responsibility of the department/authority for the blockage of drains, etc. which may cause loss of human lives and human properties during peak monsoon within East Sikkim, for the present. It was also directed to convene a meeting and where representatives of GREF, Telecom Department, Police Department, Power Department, Urban Development and Housing Department, Irrigation and Flood Control Department Public

240

Health and Engineering Department shall be present. The District Collector, East was appointed as Convenor of the meeting by the Court. The Court authorised the District Collector, East to determine the responsibility of the concerned department or departments by whom works are to be undertaken on emergency basis and on war footing. Court made it clear that if there will be loss of any human life or property during the pendency of the matter or before undertaking the works as will be determined in the meeting, the department or authorities responsible for cleaning the drains and restoring the drains and roads in its original position and responsible for loss of human lives and properties shall be brought to book and it shall be the duty of the District Magistrate, East and Police authority to initiate appropriate action against the persons and authority so responsible. The District Collector and Police Authority shall inspect and supervise the works and if it is found that any department or authority is not discharging their duties according to the decision taken in the meeting, they shall compel them to undertake the works and shall also inform the Court. In the meantime, the Secretary, Urban Development and Housing Department submitted that works which are urgent in nature and are to be undertaken by his department will

41

be taken up provided requisite funds are released. Vide order dated 17th July 2000 the Secretary, Urban Development and Housing Department was directed to submit proposals for fund to the Principal Secretary, Finance at least seven days before the fund already provided is exhausted and the Principal Secretary, Finance shall grant appropriate fund and in case fund is not granted, the same shall be brought to the notice of the Court by filing an application forthwith. On 17th July 2000, Mr. T. G. Targain, Superintending Engineer, Power Department submitted in the Court that the Power Department will remove ten poles as decided in the report within twenty days and Mr. G.T. Dungyal, Divisional Engineer, Public Health and Engineering Department submitted that ^{is} ~~that~~ most of the private water supply lines in the drains and cross-drains are obstructing the free flow of water in the drains and cross-drains. He further submitted that under Water Supply Act the department will take appropriate action against the private consumer who have violated the provisions of the Act and he further submitted that notices will be issued within a day or two. Mr. L.B. Rai, Secretary, Urban Development and Housing Department submitted that if the Environment Pollution Control Board identifies vacant land for dumping of the excavated materials

Amended
vide
order
dated
22/12/2001
M
22/12/2001

M

42

and solid wastes, Urban Development and Housing Department will dump the same on such vacant lands. A direction was issued to implead Environment Pollution Control Board under the Government of Sikkim as a party and added Secretary, Environment Pollution Control Board as respondent No. 9. The report submitted by the District Magistrate, East and signed by all concerned departments is accepted by the Court on 17th July 2000. So far as recommendation for long term remedial measures is concerned and mentioned in paragraph 4 onwards on the report, the Chairman of the Committee who is the Principal Secretary, Finance Department while recommending for long term remedial measures will look into the report and consider its feasibility. Learned Advocate General submitted on 22nd July 2000 that so far as excavated materials are concerned, the area has already been identified around cremation ground at Saramsa. Therefore, direction was issued for dumping excavation materials there and direction was also given that such dumping at cremation ground at Saramsa shall be made under the supervision of the State Pollution Control Board. The District Magistrate, East submitted his report on 5th August 2000 and submitted that all the concerned authorities have been discharging

43

their part of obligation. Learned Advocate General submitted on 5th August 2000 that at present there are provisions to impose fines and penalties for throwing spoils/garbage in the jhoras but the same are not sufficient and for this purpose deterrent provisions are contemplated by the department and accordingly the department will submit proposal to the state government for consideration of bringing appropriate legislation. Learned Advocate General submitted that the Urban Development and Housing Department will suggest appropriate provisions for compulsory imprisonment as well as fines.

6. Proposed amendment in the existing law was filed by the Secretary, Urban Development and Housing Department along with a report on 2nd September 2000.

7. An affidavit has been filed by the Additional Secretary, Urban Development and Housing Department, Government of Sikkim, which shows that Sikkim Non-Biodegradable Garbage (Control) Amendment Act, 2001 has been promulgated on 30th March 2001 and it was stated that the text of the notification was being widely circulated in Sikkim Cable TV. The notification reads as follows: -

44

“ SIKKIM GOVERNMENT GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Gangtok

Friday, 30th March, 2001

No. 70

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 5/LD/2001

Dated 30.3.2001.

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 24th day of March, 2001 is, hereby published for general information: -

**THE SIKKIM NON-BIODEGRADABLE GARBAGE
(CONTROL) AMENDMENT ACT, 2001.**

ACT NO. 5 OF 2001

**AN
ACT**

further to amend the Sikkim Non-Biodegradable (Control) Act, 1997.

Be it enacted by the legislature of Sikkim in the Fifty-second Year of the Republic of India as follows: -

- | | | |
|--|----|--|
| Short title,
Extent and
Commencement | 1. | (i) This Act may be called the Sikkim Non-Biodegradable Garbage (Control) (Amendment) Act, 2001.
(ii) It extends to the whole of Sikkim.
(iii) It shall come into force at once. |
| Amendment of
Section 8. | 2. | In the Sikkim Non-Biodegradable Garbage (Control) Act, 1997 in section 8, for sub-section (1) |

HS

the following sub-section shall be substituted, namely :-

- (1) "Whoever is guilty of any act or intentional omission in contravention of any of the provisions of this Act or of any rules, notification or order made or issued under this Act, shall be punishable with imprisonment for a term which shall not be less than one month and which may extend to six months and shall also be liable to fine which shall not be less than rupees five thousand."

By Order of the Governor.

T.D. Rinzing,
Secretary to the Govt. of Sikkim,
Law Department.
(F. No. 16(82)LD/2001) "

8. In the meantime a report was published in the Gangtok Times dated August 28 - Sept. 03, 2000 under the caption "**Geysing faces the worst nightmare in living memory 5 killed and many injured. Geysing facing some growth pangs and symptoms of uncontrolled construction and drainage blockage, deforestation???**". Another report was published in Weekend Review dated September 1-7, 2000 under the caption "**Six of a family killed in fresh landslide at Sumenthang. CM calls for immediate prevention measures**". Paragraph 1 of the report reads as follows: -

SD

216

“ GEYZING: Six of a family, including a 3-month-old baby were killed when their house at Sumenthang in Lower Onglop here on the banks of Rathong Chu about 9 kms from here was buried in a landslide on 28 August, Monday.”

9. Vide order dated 2nd September 2000, The Secretary, Urban Development and Housing Department, Principal CCF-cum-Secretary, Forest Department and District Magistrate (West) were directed to submit report in this regard on or before 8th September 2000. Further direction was given that they shall suggest remedial measures. In pursuance of the order dated 2nd September 2000, reports were submitted by the Principal CCF-cum-Secretary, Forest Environment and Wild Life Department, Secretary, Urban Development and Housing Department and District Magistrate, West. A direction was issued on 9th September 2000 to add the Chief Secretary, Government of Sikkim as respondent No. 10 and Secretary, Rural Development Department as respondent No. 11 and a report was called from the Secretary, Rural Development Department and the Chief Secretary. The Secretary, Rural Development Department submitted a report on 16th September 2000 in pursuance of order dated 2nd September 2000. A direction was also given on 16th September 2000 that copy of all the reports so far received by the Court be

247

forwarded to the Chief Secretary for his perusal and consideration and he shall inform the Court the stand of the Government. Vide order dated 18th November 2000, the Secretary, Department of Mines and Geology, Government of Sikkim was directed to submit a report as to whether Sakyong-Geyzing Tikzuk road within Geyzing Sub-Division are sinking area or not. The Joint Director, Mines and Geology Department in his interim report opined as follows: -

“A thorough geological and geo-technical assessment in future is imperative for Gyalshing area to generate tools for planning, civil construction. So far no thorough geo-environmental appraisal has been carried out either by the state Department of Mines & Geology or by the Geological Survey of India.

Sakyong-Gyalshing-Tikzuk section has experienced instabilities in the past and will experience more of it if runaway developmental activities continues in an unplanned manner.”

10. The Chief Secretary, Government of Sikkim was directed to submit his views on the aforesaid findings of the Mines and Geology Department, Government of Sikkim. The Chief Secretary has examined the report and a decision has been taken that the Government will order a Geo-Technical Investigation to be carried for the purpose of future planning and programmes. By filing an application on 30th January 2001, the Joint Director, Mines and



48

Geology Department stated that the Mines and Geology Department has decided to carry out a detailed and thorough geo-technical investigation of Gyalshing area in two phases owing to financial constraints and nature of the job and total cost likely to be involved is Rs.11,34,000/- and the Department has a resource of Rs.2,00,000/- only and they undertook the work by diverting the fund for the present considering the exigency of the work and the Department requires the fund of Rs.11,34,000/- for geo-technical investigation of Gyalshing area. A direction was given on 30th January 2001 that if the Secretary, Mines and Geology Department submits a budget proposal by 15th February 2001 to the Commissioner-cum-Secretary, Finance Department, Government of Sikkim along with the applications and orders of this Court, the Commissioner-cum-Secretary, Finance Department shall accord approval for Rs.3.4 lakhs in the budget for the financial year 2000-2001 and for Rs.7.93 lakhs in the budget for the financial year 2001-2002.

11. Vide order dated 13th March 2001, the learned Advocate General was directed to inform the Court as to whether order dated 30th January 2000 has been complied with or not. The Joint Director,



29

Mines and Geology Department has filed an interim report on Geological and Geo-Technical Study of Gyalshing, West Sikkim. A report dated 7th April 2001 was filed on the action to be taken by the District Administration/other Agencies prior to and during the monsoon suggested by the Department of Mines and Geology and it appears from the report that action on different proposals will have to be taken by the District Administration, i.e. the District Magistrate, West, P.W.D. (Roads & Bridges), Urban Development and Housing Department, respondent No. 2, Irrigation Department, respondent No. 3, Police Administration, etc. Direction was given to implead District Magistrate, West, Secretary-cum-Principal Chief Engineer, P.W.D. (Roads & Bridges), Director General of Police, Home Secretary and S.P, West as respondent Nos. 12, 13, 14, 15 and 16 respectively. The Special Secretary, Home Department, Government of Sikkim filed an affidavit on 19th May 2001 and it was stated in the affidavit that the District Magistrate, West District passed an order on 11th May 2001 under Section 133 Cr.P.C. declaring that Geyzing - Sakyong road area as unsafe for dumping of waste materials and earth-cut soil and has banned dumping of waste materials and earth-cut soil at Geyzing - Sakyong Road with immediate effect. The Chief Engineer (Roads &

Bridges submitted that their labourers are clearing the drains as and when there is rain fall. The said Chief Engineer also stated that the Panchayats and the people of the area are also being alerted during heavy rainfall. The District Magistrate, West was directed to make wide circulation through All India Radio and Sikkim Cable TV. One Mr. Anupam Saha , P.G. Teacher, Namchi Government High School has made demonstration of "Landslide Early Warning System" in the Court room. The S.P, West submitted that earlier such demonstration was done in Police Headquarter. The Court observed that the Geologist, Government of Sikkim will first look into this ~~warning~~ ^{Warning} system and for this purpose of demonstration and further discussion, Mr. Saha and the Geologist shall make themselves available in Police Headquarters. Chief Secretary was directed to do well to direct the Police Officers, District Collectors or their representatives and officers of the Department of Roads and Bridges to be present in Police Headquarter on such date. On 20th August 2001 the following questions have been asked by the learned Advocate General: -

Corrected
with order
dated
22.12.2001

J
22/12

- (a) Whether District Magistrates and the Superintendents of Police of the landslide prone districts should be provided with operational

J

5

fund for natural calamity? Whether such funds should be under disposal of the district level relief committee?

(b) Whether sufficient funds are to be given by the state Government to the District level officers for works of emergent nature during landslide and earthquake?

(c) Whether rescue is the first in the line of response in an actual calamity situation? Whether relief subsequently follows? Whether the police personnel who undertake rescue operation should be provided with rescue equipments?

(d) Whether for the aforesaid works, discretionary funds should be given at the disposal of the District Magistrates and Superintendents of Police?

(e) Whether these functionaries shall submit utilisation certificates to the State Government and shall be accountable to the Government for the aforesaid funds?

12

52

Learned Advocate General submitted that the public interest justifies the aforesaid requirements and makes suggestion that all these be reflected in the order in the form of guidelines.

12. The Chief Secretary is directed to instruct the head of the departments concerned to strictly adhere to the decisions that will be taken by the State Government on the following directions: -

- a) The Chief Secretary shall take appropriate steps for setting up a well equipped Food Testing Laboratory as contemplated under the Prevention of Food Adulteration Act 1954 and rules made thereunder and pursue the proposal if not already made. Such Food Testing Laboratory shall be set up by September 2002 and progress report in this regard shall be filed once in every quarter.
- b) The Chief Secretary shall direct the officials of Prevention of Food Adulteration Cell and Sanitation Wing of Health Department to make massive inspection campaign in every two months to update and review the sanitation and hygienic condition of all hotels established

DD

19

in Gangtok town and all market areas in Sikkim and shall submit the reports to the Chief Secretary and the Chief Secretary shall do well to issue a notification to this effect. They shall also inspect kitchen premises of hotels and other such categories of establishments where food is served. The sewerage system, drainage system in the premises shall also be looked into. All the hotels and eating establishments be directed to maintain hygienic condition of their kitchen. If they fail to do so their licence shall be cancelled after given an opportunity of hearing. If the officers entrusted to look after on these points fail to discharge their duties, disciplinary action shall be taken against the erring officers and officials.

- c) Necessary rule be framed and implemented by the Chief Secretary through out the State duly regulating licence provision for all prepared and unprepared food items.
- d) The report filed by the Principal Director, Health and Family Welfare Department, Government of Sikkim be sent to the Chief Secretary to take appropriate action within two months from the date of receipt of the report.

SA

- e) The report of the respondent No. 7 Chief Engineer, Project Swastik in compliance with the order dated 29th June 2000 be sent to the Chief Secretary, Government of Sikkim who shall set up a committee to consider the stand of the Government and action to be taken on long term basis on such report shall be filed in the Court as a Civil Misc. application within three months of the date of receipt of this Judgment.
- f) In compliance with the order passed by the Court on 3rd July 2000, the Telecom Department filed a report 5th July 2001 be sent to the Chief Secretary, Government of Sikkim who shall set up a committee to consider the stand of the Government and action to be taken on long term basis on such report shall be filed in the Court as a Civil Misc. application within three months of the date of receipt of this Judgment.
- g) The Joint Inspection Report-cum-Minutes of the Meeting held was filed by the Chief Engineer, Project Swastik be sent to the Chief Secretary, Government of Sikkim who shall set up a committee to consider the stand of the

SD

55

Government and action to be taken on long term basis on such report shall be filed in the Court as a Civil Misc. application within three months of the date of receipt of this Judgment.

- h) The Progress Report submitted on 14th July 2000 by the Chief Engineer, Project Swastik be sent to the Chief Secretary, Government of Sikkim who shall set up a committee to consider the stand of the Government and action to be taken on long term basis on such report shall be filed in the Court as a Civil Misc. application within three months of the date of receipt of this Judgment.
- i) Special Report dated 16th July 2000 in connection with writ petition No. 24 of 2000 by the District Magistrate, East be sent to the Chief Secretary, Government of Sikkim who shall set up a committee to consider the stand of the Government and action to be taken on long term basis on such report shall be filed in the Court as a Civil Misc. application within three months of the date of receipt of this Judgment.

DD

56

- j) Progress report submitted by the District Collector, East on 4th August 2000 be sent to the Chief Secretary, Government of Sikkim who shall set up a committee to consider the stand of the Government and action to be taken on long term basis on such report shall be filed in the Court as a Civil Misc. application within three months of the date of receipt of this Judgment.
- k) Copy of the report filed by the District Collector, East on 31st August 2000 be sent to the Chief Secretary, Government of Sikkim who shall set up a committee to consider the stand of the Government and action to be taken on long term basis on such report shall be filed in the Court as a Civil Misc. application within three months of the date of receipt of this Judgment.
- l) Copy of the Report on behalf of the PCCF-cum-Secretary, Forest, Environment and Wild Life Department filed on 9th September 2000 be sent to the Chief Secretary, Government of Sikkim who shall set up a committee to consider the stand of the Government and action to be taken on long term basis on such report shall

5A
7

be filed in the Court as a Civil Misc. application within three months of the date of receipt of this Judgment.

- m) Copy of the Report in the form of an affidavit on behalf of the Secretary, Rural Development Department, Government of Sikkim filed on 15th September 2000 be sent to the Chief Secretary, Government of Sikkim who shall set up a committee to consider the stand of the Government and action to be taken on long term basis on such report shall be filed in the Court as a Civil Misc. application within three months of the date of receipt of this Judgment.
- n) Copy of the Report filed by the Joint Secretary-II, Home Department, Government of Sikkim on behalf of the Chief Secretary on 22nd September 2000 be sent to the Chief Secretary, Government of Sikkim who shall set up a committee to consider the stand of the Government and action to be taken on long term basis on such report shall be filed in the Court as a Civil Misc. application within three months of the date of receipt of this Judgment.

18
5

- o) Copy of the Interim Report submitted on behalf of the Department of Mines and Geology on 24th November 2000 be sent to the Chief Secretary, Government of Sikkim who shall set up a committee to consider the stand of the Government and action to be taken on long term basis on such report shall be filed in the Court as a Civil Misc. application within three months of the date of receipt of this Judgment.
- p) Copy of the Supplement to the Interim Report filed on 3rd April 2001 on behalf of the Secretary, Mines and Geology Department be sent to the Chief Secretary, Government of Sikkim who shall set up a committee to consider the stand of the Government and action to be taken on long term basis on such report shall be filed in the Court as a Civil Misc. application within three months of the date of receipt of this Judgment.
- q) Copy of the Progress Report on the action taken by Police Department submitted in the form an affidavit by Mr. T.N. Tenzing, IPS, Additional Director General of Police on 26th April 2001 be sent to the Chief Secretary,

59

Government of Sikkim who shall set up a committee to consider the stand of the Government and action to be taken on long term basis on such report shall be filed in the Court as a Civil Misc. application within three months of the date of receipt of this Judgment.

- r) A copy of the Report submitted by the District Collector, West on 26th April 2001 be sent to the Chief Secretary, Government of Sikkim who shall set up a committee to consider the stand of the Government and action to be taken on long term basis on such report shall be filed in the Court as a Civil Misc. application within three months of the date of receipt of this Judgment.
- s) Report in the form of Affidavit filed on behalf of Respondent No. 13, Principal CE-cum-Secretary, Roads and Bridges on 26th April 2001 be sent to the Chief Secretary, Government of Sikkim who shall set up a committee to consider the stand of the Government and action to be taken on long term basis on such report shall be filed in the Court as a Civil Misc. application within three months of the date of receipt of this Judgment.

- t) Geological and Geo-Technical study of Gyalshing, West Sikkim – interim report submitted by the Joint Director, Department of Mines and Geology, Government of Sikkim in March 2001 be sent to the Chief Secretary who shall set up a Committee and stand of the State Government on such report shall be filed in the Court by the Chief Secretary as a Civil Misc. application within three months from the date of receipt of the Judgment.
- u) The Chief Secretary shall frame appropriate guidelines on the sub-paragraphs (a) to (e) of paragraph 11 within one month from the date of receipt of the Judgment and shall issue notification to this effect and inform the Court within the stipulated period by filing a Civil Misc. application.
13. The writ petition stands disposed of with the above directions.

(ANUR DEB)
JUDGE

10-09-2001.