



IN THE HIGH COURT OF HIMACHAL PRADESH AT
SHIMLA

CWP No. 10931 of 2023

Reserved on:- 10.07.2025

Decided on 30th July, 2025

Sh. Rajinder Kumar Sen and others

...Petitioners

Versus

State of Himachal Pradesh and others

...Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge

¹Whether approved for reporting? Yes

For the petitioners: Ms. Suchitra Sen, Advocate.

For the respondents: Mr. Pushpinder Jaswal, Additional
Advocate General, respondents No.1 to
4.

Mr. Nalneesh, Advocate, vice Mr.
Mukesh Sharma, Advocate, for
respondent No.5.

Mr. Narender Guleria, Advocate, for
respondents No.7 to 9.

Mr. Varun Rana, Advocate, for
respondent No.10.

Ajay Mohan Goel, Judge (*Oral*)

By way of this writ petition, the petitioners have,
inter alia, prayed for the following reliefs:-

- (i) *“That a writ in the nature of mandamus may kindly be issued, directing the respondents to provide sewerage connections to the houses of the petitioners who are residents of village Rashmin, Ward No.3, Tehsil Sundernagar, District Mandi, H.P. strictly in accordance with the relevant provisions of the Himachal Pradesh Town and Country Planning Act, 1977 and the Himachal Pradesh Municipal Act, 1994, as discussed in relevant paras of the writ petition and justice be done.*
- (ii) *To grant to the petitioner such other consequential reliefs which the Hon’ble Court may deem fit, just and proper in facts and circumstances of the matter.”*

2. When this case was listed on 01.01.2024, the following order was passed by the Court:-

“Issue notice. Mr. Rupinder Singh, learned Additional Advocate General and Mr. Mukesh Sharma, Advocate, accept notice on behalf of respondents No.1 to 4 and respondent No.5, respectively.

When the case was taken up for consideration today, the Court stands informed that petitioner No.2 has died after filing of the writ petition. His name, as prayed for, is ordered to be deleted from the array of parties. Registry to carry out necessary correction in the memo of parties.

The issue raised in this writ petition by the petitioners is with regard to the non-providing of sewerage connection to their houses, who are stated to be residents of village Rashmin, Ward No.3, which is part of Municipal Council Sundernagar, District Mandi, H.P.

This Court fails to understand as to why sewerage connections are not being issued in favour of the petitioners because providing such connections is a statutory duty, which is enjoined

upon counsel like respondent No.5-Municipal Council.

Accordingly, the matter, as prayed for, is ordered to be listed for 09.01.2024, to enable learned Additional Advocate General as well as learned counsel for respondent No.5 to have instructions as to how expeditiously sewerage connections shall be provided to the petitioners.”

3. Thereafter, on 09.01.2024, the following order was passed:-

“In compliance to the last order passed by this Court, learned Deputy Advocate General has handed over a copy of instructions imparted by Sub Divisional Officer (C), Sundernagar, which are taken on record. In terms of the said instructions, the Court has been informed that the Jal Shakti Vibhag, which is to lay down the sewerage line in Municipal Council, Sundernagar, has been called upon to do the needful by laying down the sewerage line from the land of Shri Gulab Singh, who has given his consent to lay the sewerage line through his land on the request of the President of the Municipal Council, Sundernagar, to provide sewerage connection to the petitioners. It is further mentioned in the instructions that Jal Shakti Vibhag shall carry out inspection at the spot on 09.01.2024 to see the feasibility of the sewerage line and after the inspection by the Executing Agency, further process of issuing NOC will be done after receipt of inspection report.

As prayed for, the case is ordered to be listed on 05.03.2024. In the meanwhile, the respondents are directed to ensure that the spot is visited as per the schedule fixed and the laying of the sewerage line is expedited. Let needful be done by the next date of hearing by providing the necessary sewerage connection to the petitioners.”

4. This was followed by said order, passed on 05.03.2024:-

"Pursuant to order dated 09.01.2024, learned Additional Advocate General has placed on record communication dated 2.3.2024, issued under the signature of Deputy Commissioner, Mandi, District Mandi, H.P, perusal whereof reveals that Joint Spot Inspection was conducted by the Sub Divisional Magistrate, Sundernagar, Executive Engineer, Jal Shakti Vibhag, Sundernagar and Executive Officer, Municipal Council, Sundernagar on 13.02.2024. During aforesaid inspection, petitioner Rajinder Kumar Sen (petitioner) and Sh. Gulab Singh (local resident) were present. Earlier Sh. Gulab Singh had given his consent to lay down the sewerage line in his fields to provide sewerage facility to the petitioner and as such, best possible alignment route considering technical aspects along the land of Sh. Gulab Singh was marked and the same was thoroughly conveyed to all including Sh. Gulab Singh. However, Sh. Gulab Singh has refused to provide the land under consideration for laying down the sewerage line to provide sewerage facility to the petitioner.

As per aforesaid communication, alternate route has also been explored, but suitable land is not available. As per the instructions imparted to learned counsel for the petitioner, sewerage line has been already laid down till the house of Sh. Gulab Singh, who now with ulterior motive is refusing to give land for laying sewerage line to the houses of other persons.

At this stage, learned counsel for the petitioners prays for and is granted two weeks' time to file appropriate application for impleadment of said Gulab Singh as respondent, so that notice is issued and he is also heard in the matter.

List after two weeks."

5. Thereafter, when the matter was listed in the Court on 22.03.2025, the following order was passed:-

“Mr. Rajesh Prakash, learned counsel, submits that his name is wrongly reflected in the Cause List despite the fact that he is not representing any of the parties. Registry is directed not to reflect the name of Mr. Rajesh Prakash, learned counsel, in the Cause List.

The issue involved in this petition is with regard to sewerage connections, which facility as of now is being denied to the petitioners, for the reason that one Gulab Singh, who is a private respondent in this petition and who has been proceeded against ex parte, is not permitting the laying down of the pipe line through his land/ connection of the sewerage with the pipe line which already stands laid in his property.

Learned counsel appearing for the Municipal Council submits that on account of the No Objection Certificate not being given by said respondent (Gulab Singh), the Council is helpless.

This Court is of the considered view that here it is a clear case where the Municipal Council is not performing the statutory duties which it is bound to perform in terms of the provisions of Section 141 of the Municipal Act, 1994. The provisions of Section 141 of the Municipal Act, 1994 provide as under:-

“Sewerage connection.- 2[(1) The municipality may, at any time establish any connection or communication from any water-main, drain or sewer to any premises, or may by notice require the owner of any such premises to establish any such connection or communication in such manner and within such times as the municipality, by notice in that behalf, may prescribe, at the cost of such owner or occupier.

(2) Notwithstanding anything contained in sub-section (1), it shall be the duty of the house owner or occupant of any premises to connect his latrines, urinals and septic tank, as the case may be, with

sewerage line where sewerage system has been provided by the municipality, at his own expenses, by getting sewerage connection from the municipality and if he fails to do so, he shall be punishable with fine which may extend to two thousand rupees but shall not be less than five hundred rupees, in addition to other charges for such connection which in case of continuous default will result in disconnection of essential services viz. water, electricity etc.: Provided that where sewerage line is passing through other person's land, the sewerage connection shall be connected to the sewerage line through the boundary lines of such land or where the building has been constructed, the line shall be laid through the setbacks of such building, whichever is feasible."

In terms of the proviso, it is apparent and evident that where sewerage line is passing through other persons' land, the sewerage connection shall be connected through the sewerage line through the boundary line of such land or where the building has been constructed, the line shall be laid through the setbacks of such building, whichever is feasible.

There is no statutory requirement that the Counsel has to obtain a No Objection Certificate from the person from whose property the sewerage line is to pass. In case, Section 141 of the Act is interpreted as such, then the Municipal Authorities would not be able to provide majority of the residents' sewerage connection and the Section will become otiose.

Be that as it may, as it is apparent and evident that either the Municipal Council is mis-reading and misinterpreting the provisions of Section 141 of the Municipal Act, 1994 or it is hand in glove with the private respondent, said Council is directed to forthwith lay down/connect the sewerage line so that necessary connections are given to the petitioners as well as similarly situated persons by laying down the sewerage line etc. through the property of the private respondent.

At this stage, learned counsel for the Municipal Council informs the Court that the sewerage line has to be laid down by the Jal Shakti Vibhag, who lays down sewerage pipes in the Municipal area.

Be that as it may, taking into consideration the fact that the Municipal Act talks about municipalities and the municipal bodies, therefore, it shall be the duty of respondent No.5 to have the order of the Court implemented in letter and spirit, be it through any Agency. The Agency which has to lay down the pipe line shall also be bound by the directions passed by the Court today. As prayed for, list on 02.05.2025.”

6. On 02.05.2025, the Court passed the following order:-

“As prayed for, list on 13.05.2025. It is clarified that in case the directions that have been passed by this Court in the writ petition from time to time are not implemented by the Authorities in letter and spirit, this Court shall be constrained to exercise the powers conferred upon it under Article 215 of the Constitution of India, because evidently some mischief is being placed by the Authorities by not implementing the the order and by not further implementing the provisions of Himachal Pradesh Municipal Act, 1994. Further, if needful is not done by the said date, the officer concerned shall also remain present in the Court to assist the Court as to why the order is not being implemented.”

7. Thereafter on 13.05.2025, this Court passed the following order:-

“Learned Counsel for the Municipal Council, Sundernagar, has apprised the Court that the Council is making an endeavour to provide sewerage connection to the petitioners.

Learned Counsel for the petitioners submitted that the laying of the sewerage pipeline is being proposed in a manner that will cover lot of distance and shall involve property of many people and the proposal which is at page No. 3 of the documents handed over to the Court is a feasible proposal as it will not disturb majority of the people and sewerage line will go only through the property of two individuals who are creating hurdles in the setting up of the pipeline.

Executive Officer of the Municipal Council is present in person and he submitted that some time be granted to him to do the needful.

List on 27.06.2025.

This Court impresses upon the Officer to ensure that the pipeline is laid in a manner which gives complete connection to the parties concerned and further the Court expects the Council to exercise the power conferred upon it under the provisions of Section 141 of the Himachal Pradesh Municipal Act, 1994 and not to succumb to the pressure of the private individuals."

8. Thereafter, when the matter was listed on 02.06.2025, the Court passed the following order:-

"CMP No. 12591 of 2025 in CWP No. 10931 of 2023

Having heard learned Counsel for the parties, this Court is of the considered view that the applicants are the necessary parties in the present lis, accordingly, this application is allowed by impleading the applicants as respondents No. 7 to 9.

CWP No. 10931 of 2023 & CWP No. 7230 of 2024

The issue involved in these petitions is with regard to laying down of the sewerage line so that the petitioners can get their sewerage connections. Whereas the contention of the petitioners is that the

private respondents are creating impediment in laying down of the sewerage pipeline, taking law in their own hands, the contention of the newly impleaded respondents is that they are not averse to laying down of the sewerage line but then the sewerage line should be laid down in the manner so that there is minimal usage of their land and the same be laid from boundary of their land so that same does not affect the value of the property of the respondents. Mr. Narender Guleria, learned Counsel submits that his statement can be taken on record to the effect that the respondents shall not create any impediment in the laying down of the sewerage line from their land.

Taking into consideration the fact that there is no dispute on the issue that for the purpose of laying down of the sewerage pipeline, some part of land of the private respondents/newly impleaded respondents is to be utilized, this Court is of the considered view that it would be in the interest of justice, in case, the Secretary DLSA, Mandi, is called upon to inspect the area in the presence of the petitioners as well as the private respondents and the Authorities concerned so that best way, in which, the sewerage lines can be laid, can be worked out, which is viable and economical and causes least inconvenience to the private respondents. However, the private respondents shall not create any impediment in laying down of the sewerage lines as well as utilization of their land for the purpose laying down of the same, i.e. the land which is required for laying down of the sewerage lines so that the sewerage connections can be provided to the petitioners as well as other residents of the area. Ordered accordingly.

This Court hopes and expects that no one will take law in his/her hands.

List on 23.06.2025.

Registry shall ensure that a copy of this order is made available to the Secretary, DLSA, Mandi, who thereafter shall intimate the parties through counsel of the date of his visit to the site.

The Secretary, DLSA, Mandi, shall file its report by the next date of hearing in the Court.”

9. This was followed by order dated 23.06.2025, which reads as under:-

“Report stands submitted by the Secretary, DLSA, Mandi. The Court has perused the same. This Court places on record its appreciation for the work undertaken by the learned Secretary, DLSA, Mandi. Registry is directed to hand over a copy of the report to the learned counsel for the parties and the case is ordered to be listed for further consideration on 26.06.2025. Amended memo of parties be filed, in the meanwhile.

Registry is also directed to reflect the name of Mr. Narender Guleria, Advocate, for respondents No. 7 to 9, in the cause list.

CWP No. 7230 of 2024

List along-with CWP No. 10931 of 2023.”

10. Thereafter, when the matter was listed on 26.06.2025, the Court passed the following order:-

“The matter was taken up for consideration today and prima facie, this Court is of the considered view that in the light of the report that has been filed by the District Legal Services Authority, Mandi, District Mandi, H.P, the first proposal provided therein appears to be the most feasible as apparently it will not pass through the land of many land owner but will only passed adjacent to the beed of the fields of Gulab Singh and Rajeev Kumar and respondent No.7 and 9. Whereas, Gulab Singh has been proceeded against ex party, Mr. Guleria, learned counsel appearing for respondent No.7 and 9 submits that as far as this proposal is concerned,

said respondents have no objection, provided the line is laid through the beed as suggested by the Secretary District Legal Services Authority, Mandi.

This Court is of the considered view that in the light of the facts mentioned in the report that brother of Gulab Singh, namely, Rajeev Kumar, has objected to the said proposal on the plea that he claims himself to be a coowner of the afore mentioned land, it would be in the interest of justice, in case, said Rajeev Kumar is also impleaded as a party respondent in the case.

Accordingly, on the oral request of learned counsel for the petitioner, Rajeev Kumar, S/o Nettar Singh, R/o village Rashmin, Tehsil Sundernagar, District Mandi, H.P., is impleaded as respondent No.10.

Dasti notice as prayed for be issued to the said respondent, returnable for 04.07.2025. Steps for the service of the respondent be taken by 27.06.2025 and dasti notice be handed over to the learned counsel by 28.06.2025.

List on 04.07.2025. Amended memo in the meanwhile."

11. Thereafter, the arguments in the case were heard on 10.07.2025.

12. The petitioners, who are the residents of Sundernagar/village Rashmin, Ward No.3, Tehsild Sundernagar, have approached this Court with the plea that they are residing with their families for the last more than 60 years, which presently is within the domain of the Municipal Council, Sundernagar. As per the petitioners, the area, where,

they are residing, has all necessary public services and conveniences except sewerage connections. According to them, Municipal Council Sundernagar has already provided sewerage connections to the dwellings of the residents of village Rashmin from where the houses of the petitioners are hardly at the distance of 100-150 meters. Despite this fact, the houses of the petitioners have not been connected with the sewerage line, which has forced them to approach this Court.

13. Municipal Council during the course of this petition as well as the respondent-State though did not oppose the prayers made in the writ petition, but cited practical difficulties in providing sewerage connection to the houses of the petitioners including the factum of the land of certain private individuals being involved from where sewerage lines are to be taken.

14. Article 47 of the Constitution, which is part of Chapter IV of the Constitution, dealing with the Directive Principles of State Policy provides that the State shall inter alia regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as

among its primary duties.

15. It is, but, in furtherance of the improvement of public health that sewerage connections are being provided nationwide.

16. Section 141 of the Municipal Act, 1994 reads as under:-

“141. Sewerage connection:-[(1) The municipality may, at any time establish any connection or communication from any water-main, drain or sewer to any premises, or may be notice require the owner of any such premises to establish any such connection or communication in such manner and within such times as the municipality, by notice in that behalf, may prescribe, at the cost of such owner or occupier.

(2) Notwithstanding anything contained in sub-Section(1), it shall be the duty of the house owner or occupant of any premises to connect his latrines, urinals and septic tank, a the case may be, with sewerage line where sewerage system has been provided by the municipality, at his own expenses, by getting sewerage connection from the municipality and if he fails to do so, he shall be punishable with fine which may extend to two thousand rupees but shall not be less than five hundred rupees, in addition to other charges for such connection which in case of continuous default will result in disconnection of essential service viz. water, electricity etc.

Provided that where sewerage line is passing through other person's land, the sewerage connection shall be connected to the sewerage line through the boundary lines of such land or where the building has been constructed, the line shall be laid through the setbacks of such building, whichever is feasible.]”

17. Proviso after sub-section 2, thus, clearly provides that where sewerage line is passing through other person's land, the sewerage connection shall be connected to the sewerage line through the boundary lines of such land or where the building has been constructed, the line shall be laid through the setbacks of such building, whichever is feasible. Therefore, one thing is evident that for the purpose of laying down the sewerage line, which has to pass through other person's land, there is no requirement in law for the Council to seek the consent of said land owner. All that the Council has to ensure is that the sewerage connection shall be connected to the sewerage line through the boundary lines of such land or where the building has been constructed, the line shall be laid through the setbacks of such building.

18. In this backdrop, as it is the statutory duty of the Council to provide sewerage connection and if property of another land owner is involved, then, as a mechanism has been provided in the Act itself as to how the sewerage line has to be laid, the Council is duty bound to provide the sewerage

connection to the petitioners by following said statutory mandate. The private land owners have no right to object to the same provided the Council provides the sewerage connection in terms of the provisions of this Section.

19. In the light of the fact that Secretary District Legal Services Authority, Mandi has visited the site and has suggested proposals as to how best sewerage connection can be provided to the petitioners, to which respondents No.7 and 9 also submitted their no objection, the objection in said regard being raised by respondent No.10 in terms of the reply filed by the said respondent is not sustainable in law. The objection being taken by the said respondent is being discarded by the Court not for any other reason, but in the light of the inspection report submitted by Secretary District Legal Services Authority Mandi, relevant portion whereof is quoted hereinbelow:-

"In compliance of order dated 02-06-2025 passed by the Hon'ble High Court of Himachal Pradesh in CWP No. 10931 of 2023 titled as Rajinder Kumar and other Vs. State of H.P. and Ors., I visited ward no.3, village Rashmin, Tehsil Sundernagar District Mandi, H.P. on 17.06.2025 for spot inspection of the area under consideration for laying of the sewerage line Prior intimation in this regard was given to the parties through their counsel. The parties including petitioners, concerned authorities (SDM Sh. Amar Singh Negi, Xen I&PH

Sh. Rajat Garg, SDO I&PH Sh. Dinesh Rana, Executive Officer, Municipal Council Sundernagar Sh. Lalit Kumar) and private respondents as well as some other inhabitants of the area were also present at the spot.

I inspected the area in the presence of the petitioners as well as the private respondents and the authorities concerned to determine the best way in which sewerage lines can be laid. After thorough inspection and discussion with technical expert Sh. Rajat Garg, Xen I &PH, two alignment routes considering all technical aspects were found feasible for laying of sewerage pipes. The first alignment route (depicted in orange in annexure A-1) is divided into two parts. One part connects the houses of majority of the petitioners (including petitioner Rajinder Kumar) to the existing manhole whereas the other part connects the houses of remaining petitioners to other already existing manhole. The sewerage line connecting the houses of majority of petitioners shall be laid down through the fields of the said petitioners which then shall pass through the fields of one Gulab Singh (respondent No. 6) and respondents no.7 to 9, ultimately connecting to the existing manhole. The pipeline will pass mainly through the land of the petitioners and only a small portion thereof is to be laid through the field of Gulab and respondents Kripal Singh etc. The Xen 1 &PH disclosed that only the area adjacent to the Beed of the aforesaid fields will be utilized for the laying of the sewerage pipes. Gulab Singh (respondent no.6) and his brother Rajeev Kumar (who also claims himself to be co-owner of the aforementioned land) were also present at the spot but they refused to provide their land for laying down of the sewerage lines.

The other part of the first alignment route (also depicted in orange in annexure A-1) shall connect the house of the remaining petitioners to the other existing main hole. The said pipe line shall be laid through the fields of some of the petitioners and other inhabitants. Only the beed of the fields and a nullah existing at the spot would be used for laying

down of the sewerage pipe However, it was told that there also one of the owners of the identified fields namely Pawan Kumar is creating hindrance as he has refused to provide his land for laying down of sewerage line.

So far as the second alignment route (depicted in yellow in Annexure A-1) is concerned, the sewerage pipe shall be laid through the land/house of petitioner Neeraj and the same shall pass through a number of fields (including fields of respondents no.7 to 9) ultimately connecting to other existing manhole. This single route will connect the houses of all the petitioners with sewerage system. Although the sewerage pipe will also be laid through the beed of the identified fields, however, there are quite a number of trees on the said beed and as such some actual portion (approximately 3 feet width) of the fields needs to be utilized for the said purpose. Further the sewerage pipe will need to be lowered (in order to give it a downward slope), for which purpose it needs to be passed through the center of some fields (including fields of respondents no.7 to 9). The respondents No.7 to 9 raised strong objection against the same claiming that approximately 150-200 meters of their land would be rendered useless if the sewerage pipe is laid through this route. This claim of respondents no 7 to 9 was also not refuted by the Xen I&PH. Some of the owners of the identified fields were also present at the spot and they all refused to give their field/land for laying down of sewerage pipeline. Xen I&PH and other officials of the municipal corporation also stated that most of the owners of the fields identified for this alignment route are not willing to provide their land for laying of sewerage line.

In further compliance of directions of the Hon'ble High Court, I alongwith SDO I&PH Sh. Dinesh Rana, and Executive Officer, Municipal Council Sundernagar Sh. Lalit Kumar also visited Pungh (Near NH-21, Bridge). Post Office and Tehsil Sundernagar, District Mandi (H.P.) on 17.06.2025 for spot inspection of the area under consideration for laying of the sewerage line of petitioner (CWP

No.7230 of 2024) Kameshwar Ram Sharma. Upon inspection, one alignment route considering all technical aspects was found viable for laying of sewerage line for connecting petitioner's house with sewerage. The sewerage pipeline is to be laid through the back of petitioner's house which shall then pass through the backyard of the houses of Sh. Pran Nath Sharma and Smt. Yogmaya respectively (as shown in annexure A-2) whereafter it shall be connected with the existing manhole. No major inconvenience will be caused to the owners of either of the aforesaid houses as only a small portion of their premises is to be utilized for laying of pipeline. The Executive officer, Municipal Council Sundernagar, however disclosed that Smt. Yogmaya is against the laying of sewerage pipe through her premises.

Report is humbly submitted for Your Lordship's kind perusal and consideration, please."

20. As already mentioned hereinabove, respondents No.7 to 9 have already stated in the Court that they have no objection, in case, the sewerage line is laid down in terms of the first proposal. Respondent No.8 despite service did not chose to oppose the petition and he was proceeded against ex parte. Respondent No.10, who is co-owner alongwith other private respondents, cannot be allowed to oppose the laying down of the sewerage line, which is being proposed to be laid down in terms of the proviso to Section 141 of the Act. The opposition on behalf of respondent No.10 in fact violates

Section 141 and said respondent cannot be permitted to violate statutory provisions by not allowing the Council to perform its statutory provisions. The petitioners have a statutory right of grant of sewerage connection and in terms of the report of Secretary DLSA as the same is feasible denial thereof to the petitioner cannot be justified in law.

21. Accordingly, this petition is allowed by directing the respondent authorities/council to provide sewerage connections to the petitioners by laying down the sewerage pipe line in terms of the first alignment route suggested in the inspection report submitted by Secretary DLSA, Mandi. It is emphasized that in the course of the laying down of the said sewerage line, it be ensured that minimum damage is caused to the property of the private respondents and the beed of the fields and Nalah existing at the spot be used for laying down of the sewerage line as has been suggested by Secretary DLSA. Pending miscellaneous applications, if any, stand disposed of.

(Ajay Mohan Goel)
Judge

July 30, 2025
(Vinod)