

The Himachal Pradesh Government was held to have committed a patent breach of the public trust by leasing ecologically fragile land to the motel. It was held that the "polluter pays" principle as interpreted by the Supreme Court was applicable to this case. Those findings were held to be final and no argument could be permitted to be addressed in that regard. The only question that remained left was the determination of the quantum of compensation and whether the fine in addition be imposed. The NEERI report also did not either give a clean chit to the motel or completely exonerate it for its activities which were earlier considered to constitute onslaught on the fragile ecology of the area. In 2000, the Supreme Court had directed the motel to show cause as to why, in addition to damages, it should not be asked to pay exemplary damages for having committed the acts set out in the main judgment. The motel had contended that it had already spent considerable sums of its own money for protective and relief measures undertaken by it and it would be unjust and harsh to levy any further liability on it in the shape of exemplary damages when it had already undertaken the responsibility of bearing a fair share of the project costs of ecological restoration. The Supreme Court had observed that it was impermissible for the motel's counsel or anyone else to claim a reversal of those findings or a reconsideration of the nature or character or the legality or propriety of the motel's activities. The only question that remained was the determination of the quantum of damages and whether the fine in addition should be imposed. The Supreme Court had also directed the motel to show cause why exemplary damages could not be awarded against it for having committed the acts detailed in the main judgment. The Supreme Court had also indicated that the object and purpose of the levy of exemplary damages was to serve as a deterrent to others from causing pollution in any manner. The Supreme Court had also observed that the general and passing reference made to the earlier findings did not either give the motel a clean chit or exonerate it completely for its activities which were earlier considered as an onslaught on the area's fragile environment and ecology. In 2009, the Himachal Pradesh High Court had directed the motel to pay compensation by way of cost for restitution of the environment and the ecology of the area. It had also directed the motel to construct a boundary wall on the area of the motel which was covered by the lease. Keeping in view all these factors, the court fixed the quantum of exemplary damages at Rs. 10 lakhs. The amount, of special damages, shall be remitted to the state government in the department of irrigation and public health to the commissioner/secretary for being utilized only for flood protection works in the area of the Beas river affected by the actions of Span Motels Pvt Ltd. Case Title: State of Punjab v. Span Motels Pvt. Ltd & Anr. Case No: Writ Petition (Civil) No. 112 of 2019 Date of Order: 16th February, 2022 Appearances: Senior Advocate Siddharth Luthra for appellant; Senior Advocate Mukul Rohatgi for respondent no. 1; Senior Advocate Gopal Sankaranarayanan for respondent no. 2. Counsel for the Appellant: Mr. Siddharth Luthra, Sr. Adv. Counsel for the Respondent: Mr. Mukul Rohatgi, Sr. Adv. Mr. Gopal Sankarnarayanan, Sr. Adv. Mr. R. Balasubramanian, Sr. Adv. Mr. Siddharth Bhatnagar, Adv. Mr. Amit Bhardwaj, Adv. Mr. Sandeep Kumar, Adv. Mr. S.K. Jain, Adv. Mr. S.S. Saini, Adv. Mr. R.S. Significant Paragraphs: Keeping in view these factors, the quantum of exemplary damages was fixed at Rs. 10 lakh. The amount of special damages shall be remitted to the State of Punjab in the Department of Irrigation & Public Health to the Commissioner/ Secretary for being utilized only for flood protection work in the area of the Beas River affected by the actions of the Span Motels Private Limited. Case Title: State Of Punjab Vs. Span Motels Private Limited & Anr. Case No: WRIT PETITION (CIVIL)

NO. 112 OF 2019 Date Of Order: 16TH DAY OF FEBRUARY, 2022 Appearance:
SIDDHARTH LUTHRA, SENIOR ADVOCATE FOR APPELLANT; MUKUL ROHATGI,