

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI VIPIN SANGHI
AND
HON'BLE SRI JUSTICE R.C. KHULBE

03RD AUGUST, 2022

WRIT PETITION (PIL) No. 93 OF 2022

Between:

Jitender Yadav.

...Petitioner

and

Union of India and others.

...Respondents

Counsel for the petitioner. : Mr. Dushyant Mainali, the learned counsel.

Counsel for the respondent no. 1. : Mr. Lalit Sharma, the learned Standing Counsel for the Union of India.

Counsel for the respondent no. 2, 3, 4, 7 and 8. : Mr. C.S. Rawat, the learned Chief Standing Counsel for the State of Uttarakhand.

Counsel for the respondent no. 5. : Mr. Rajeev Bhatt, the learned counsel.

Counsel for the respondent no. 6. : Mr. Aditya Pratap Singh, the learned counsel.

ORDER : (per Sri Vipin Sanghi, C.J.)

The matter was fixed today for the limited purpose of receiving Status Reports from all the District Magistrates in the State, in relation to the direction issued by us, in paragraph no. 43 of our order dated 07.07.2022, wherein we had required the taking of immediate steps to clear the solid waste/ non-

biodegradable plastic waste, which has been collected all over the State in a mission mode.

2. It is unfortunate to note that not even one Status Report has been filed by any of the District Magistrates. Mr. C.S. Rawat, the learned Chief Standing Counsel, states that he has received some reports from some of the District Magistrates, but they are not in the proper form. He seeks further time to make compliance of our aforesaid direction, and to file Status Reports.

3. Mr. C.S. Rawat, the learned C.S.C., has also tendered, in Court, the response affidavit of the Director, Urban Development, which is taken on record.

4. The petitioner has filed a supplementary affidavit on record, with photographs, taken as late as on 02.08.2022 near the Forest Training Institute; adjacent to the Staff Colony of the Medical College, Haldwani, as well as the Mandi Bypass Road, Haldwani, which show massive amount of plastic waste, and other waste collected on the roadsides.

5. *Prima facie*, it appears that our directions have fallen on the deaf ears of the Municipal Commissioner, Haldwani Municipal Corporation. We are, therefore,

inclined to issue show cause notice to the Municipal Commissioner, Haldwani Municipal Corporation, to show cause as to why contempt proceedings be not drawn against him. He/she is directed to purge the contempt, and file a Status Report on the next date, when he/she shall personally remain present in the Court as well.

6. The Status Reports, in terms of our last order, which have not been filed till today by the District Magistrates, be filed positively by the next date.

7. There were two aspects that we had asked the Bench Secretary to communicate to the learned counsels, which had come to notice upon reading of the news articles, which were published in the "Times of India" newspaper.

8. The first article relates to the collection of huge amount of garbage of 30,000 metric tons in Haridwar on account of the Kanwar Yatra. Mr. C.S. Rawat, the learned C.S.C., has tendered, in Court, the instructions received by him from the Secretary (In-Charge), Urban Development – Shri Vinod Kumar Suman dated 02.08.2022, wherein he has given facts and figures with regard to the steps taken for clearance of

garbage and human waste during the Kanwar Yatra at Haridwar.

9. We have no doubt that the administration has taken some steps to deal with the situation created by the just concluded Kanwar Yatra, which saw crores of people come into Haridwar to collect the holy water from the river Ganges. The issue is, whether, the arrangements made and steps taken have actually translated into action, sufficient to deal with the situation completely. From the news reports, it appears that there is a lag between the arrangements made and implemented, and those that were called for.

10. It goes without saying, that it is essential for the State to make sufficient arrangements to deal with situations, which pose a challenge to the sanitation infrastructure, as well as to garbage collection and disposal infrastructure, whenever such large gatherings of people take place. It is also essential that the State should take steps to sensitize the people i.e. not only the local population, but also those, who are visiting places such as Haridwar, or other tourist/ religious places in the State, of their obligation to keep the places/ towns neat and clean, and free from garbage

and human waste. Coupled with this, it is important that the State creates sufficient infrastructure by installing separate garbage receptacles for biodegradable, non-biodegradable, bio-medical and e-waste by marking them with green, blue and red colours respectively, so that at the time of collection of the waste, it is segregated.

11. The State should also create sufficient infrastructure and machinery to fine those, who are found to be violating the norms with regard to collection and disposal of waste, as the same is bound to act as deterrence to all others. We direct the State to disclose on affidavit, what steps have been taken, and are proposed to be taken in respect of aspects taken note of in para 10 above.

12. Let the petitioner make a survey of the Haridwar district, and to place before this Court its findings, with regard to the impact of the Kanwar Yatra in relation to solid waste pollution in the said district, before the next date.

13. Another aspect, that was highlighted to the learned counsels, which we intended to take up today,

was in relation to a news article that 30 new peaks and 10 trails are proposed to be opened for climbers/ mountaineers/ tourists by the State for tourism. While there can be no denial of the fact that the State should encourage tourism, as tourism is an important industry for the State of Uttarakhand, at the same time, the endeavor of the State should be to ensure that such tourism is responsible tourism. This means that, before opening up new areas for tourism, such as peaks and trails - which obviously are in the remotest parts of the State, an assessment of the impact that such endeavours would have, should be made, particularly the impact on the eco-system due to the spread of biodegradable, non-biodegradable and other kind of waste, such as human waste.

14. In this regard, the learned C.S.C., has tendered, in Court, the guidelines framed by the State Government, which are required to be followed by tourists and mountaineers, who undertake expeditions to Himalayan peaks and trails. The measures, which have been taken to ensure garbage disposal, are as follows :-

“Measures to ensure garbage disposal:

- *It has been made mandatory for the mountaineers, to declare a list of biodegradables as well as non-biodegradable waste material being carried by the team at the Expeditions Check Post before commencement of the expedition. The team leader will pledge security deposit in the form of demand draft amounting to Rs.10,000/- for foreign expedition and Rs.5,000/- for Indian expedition in favor of concerned DFO.*
- *On return, the team will need to give an undertaking in a prescribed format **FORM No.2** that all the non-biodegradable waste material generated by the expedition team at various camps has been lifted and biodegradable waste has been suitably disposed. The team will need to declare all the non-biodegradable waste generated by the expedition team and deposit the same at the Expeditions Check Post or at a suitable site at the road head as designated by the DFO. The security deposit will be released at the earliest by the local Range Officer after his certification of safe return of non-biodegradable garbage at the ECP. It shall be the responsibility of Forest Department to transport the non-biodegradable garbage from ECP/ designated site, to the recycling point.*
- *The maximum number of expeditions to a particular peak by any route will be limited to 2 expeditions per calendar month. However, not more than twelve expeditions shall be allowed in one calendar year to any particular peak and its close proximity satellite peaks. IMF will ensure that applications of mountaineers should confirm to the number of core expedition members, Porters/ Guides/ Sherpas and frequency of expeditions prescribed as above. The expedition team are required to strictly adhere to the conditions imposed by the Indian Mountain Foundation and the Chief Wildlife Warden, Uttarakhand with respect to the expedition.*
- *It shall be mandatory for all expedition teams to travel only along the permitted route. Deviations from the permitted routes will be permitted by the CWLW only in most exceptional circumstances. The team leader shall bring any such deviation to the notice of local DFO at the first opportunity.*
- *The expedition teams shall not carry any weapons and/or injurious substances which can*

injure, harm or kill any wildlife or their habitat. The team shall not indulge in any poaching, kindling of fires or leave burning embers or destroy, deface or remove any wildlife, trees, herbs, shrubs, sign-posts etc. during the expedition.

- *The expedition teams shall ensure carriage of sufficient quantity of kerosene oil and LPG for heating and cooking purposes. Use of firewood is strictly prohibited during the expedition.*
- *The expedition teams shall refrain from polluting waters with human and kitchen wastes.*
- *The expedition teams shall carry sufficient quantity of bags/ containers for bringing all non-bio-degradable wastes back from transit camps and base camp to be deposited on return at the Expedition Check Post.*
- *The expedition teams are advised to avail of all infrastructure facilities (boarding, lodging and transport) available with the State Government such as Tourist Rest Houses, Forest Rest Houses and Home-stay facilities available in the en-route villages.*

The mountaineering expeditions in selected mountain peaks has been carried out under the guideline issued by the state government, which is known as "Mountaineering Guideline-2004. The activity is coordinated by the Indian Mountaineering Foundation, Forest Department, Uttarakhand and Uttarakhand Tourism Development Board. Following the recommendation of the IMF, the Chief Wildlife Warden, Uttarakhand issued permission for the adventure elucidating exhausting list of permitted and prohibited activities. The Divisional Forest Officer under whom jurisdiction, the mountaineering activity is carried out are required to abide the instructions given by the Chief Wildlife Warden to ensure safe adventure activity as well as safety to forest, wildlife and environment.

For the kind perusal of the Hon'ble High Court, a copy of the permission released by the Chief Wildlife Warden, Uttarakhand has been appended as an example of the regulation made by the department for expedition."

15. The aforesaid measures, all appear to be very good on paper. Our experience shows that when it comes to implementation, there is complete failure, which results in the object not being achieved, and mounds of garbage, particularly non-biodegradable waste/ plastic waste getting collected, and the soil and water bodies getting polluted with human and kitchen waste. The fact, that the aforesaid guidelines have not been implemented on the ground, is evident from the photographs, which we have extracted in our previous order, and which have been placed on record by the petitioner. Since the aforesaid measures are stated to have been put in place, we direct the State to file an affidavit disclosing the following information :-

(i) In how many cases the security deposit was collected, for Foreign Expedition and Indian Expedition, of Rs. 10,000/- and Rs. 5,000/- respectively?

(ii) In how many cases of Foreign Expedition and Indian Expedition, the security deposit was forfeited?

(iii) The number and location of ECP/ designated sites earmarked for collection of non-biodegradable

waste and the facility for garbage collection created at such sites, and the infrastructure deployed by the Forest Department to transfer the non-biodegradable garbage from ECP/ designated sites to the recycling point?

(iv) The infrastructure created by the State alongside the roads of such expeditions, in the shape of toilets, kitchens and installation of garbage bins, should also be stated; and whether garbage bins are separately provided for biodegradable, non-biodegradable and medical/e-waste, with colour coding as aforesaid?

(v) The affidavit should also disclose as to what are the infrastructural facilities (boarding, lodging and transportation), which are available with the State Government, such as Tourist Rest Houses, Forest Rest Houses and Home-stay facilities available *en route* villages of such expedition routes.

16. The condition imposed on expedition teams to carry sufficient quantity of bags/ containers for bringing all non-biodegradable waste back from transit camps

and base camps to be deposited on return at the Expedition Check Post, though good on paper, in our view, appear to be practically difficult to implement. The State should, therefore, ensure that sufficient infrastructure is created, and garbage bins all along such expedition routes are installed. Infrastructure should also be created for collection and disposal of garbage from all such receptacles on a frequent basis.

17. Mr. Aditya Pratap Singh, the learned counsel for the State Pollution Control Board, submits that no clearance of the State Pollution Control Board has been obtained in the matter in relation to the opening of 30 new peaks and 10 trails. He submits that the State Pollution Control Board shall prepare a report on Environmental Audit, which would cover all aspects such as provision of toilets, kitchens, garbage bins etc., and the manner in which the systems should be made to work. He submits that preparation of the said report would take about 25 days and, therefore, the State should refrain from opening the said new peaks and trails to await the report of the State Pollution Control Board.

18. In our view, the State should have obtained the said Environmental Audit Report from the State Pollution Control Board, on its own, before even deciding to open the 30 new peaks and 10 trails, as publicized in the news reports. In any event, we direct the State to ensure that the Environmental Audit report of the State Pollution Control Board is obtained, which should be made within the next four weeks positively. The State should further ensure that it actually complies with the same in all respects before actually opening the 30 new peaks and 10 trails. The State Pollution Control Board should place the Environmental Audit Report, along with its next report to be filed before the Court.

19. List this case on 23.08.2022, as directed by us in our previous order dated 07.07.2022.

VIPIN SANGHI, C.J.

R.C. KHULBE, J.

Dt: 03rd August, 2022
Rahul