

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH
CHAUHAN
AND
THE HON'BLE SRI JUSTICE ALOK KUMAR VERMA

Writ Petition (PIL) No. 58 of 2020
Writ Petition (PIL) No. 97 of 2019
Writ Petition (PIL) No. 50 of 2020
Writ Petition (PIL) No. 51 of 2020
Writ Petition (PIL) No. 67 of 2020
Writ Petition (PIL) No. 70 of 2020
Writ Petition (PIL) No. 61 of 2021
Writ Petition (PIL) No. 77 of 2021

23RD JUNE, 2021

Mr. Shiv Bhatt, the learned counsel for the petitioner in WPPIL No. 58 of 2020 and WPPIL No. 77 of 2021.

Mr. Abhijay Negi, the learned counsel for the petitioner in WPPIL No. 97 of 2019 and WPPIL No. 67 of 2020.

Mr. Dushyant Mainali, the learned counsel for the petitioner in WPPIL No. 50 of 2020.

Mr. Piyush Garg, the learned counsel for the petitioner in WPPIL No. 51 of 2020.

Mr. Navnish Negi, the learned counsel for the petitioner in WPPIL No. 70 of 2020.

Mr. Sandeep Tiwari, the learned counsel for the petitioner in WPPIL No. 61 of 2021.

Mr. S.N. Babulkar, the learned Advocate General assisted by Mr. C.S. Rawat, the learned Chief Standing Counsel for the State of Uttarakhand.

Mr. V.K. Kapruwan, the learned Standing Counsel for the Union of India.

COMMON ORDER: (per Hon'ble The Chief Justice Sri Raghvendra Singh Chauhan)

In pursuance of the orders dated 09.06.2021 and 16.06.2021, Mr. Om Prakash, the learned Chief Secretary, Mr. Amit Negi, the learned Secretary, Medical Health and Family Welfare, and Dr. Ashish Chauhan, the learned Additional Secretary, Culture and Religion Affairs Department, are present in the Virtual Court through *Video Conferencing*. Mr. Amit Negi has submitted a compliance report in the form of an affidavit. Dr. Ashish Chauhan has also submitted a compliance report in the form of an affidavit. Both the affidavits/compliance reports shall be taken on record.

2. Presently, this Court is dealing with three issues :-

(i) The level of preparedness in the State for dealing with the third wave of COVID-19, which, according to the Director, All India Institute of Medical Sciences at Delhi, and, according to the scientific community, is about to hit India in the second week of August, 2021.

(ii) The ability of the State to deal with the increasing number of black fungus cases, which are emerging within the State.

(iii) Most importantly, the opening of the Char Dham Yatra, which presently according to the State Government, is scheduled to commence from 01.07.2021.

3. A bare perusal of the affidavit filed by Mr. Amit Negi clearly reveals that although parts of the affidavit are detailed in their scope, other parts of the affidavit continue to be vague in their content. In the beginning of the affidavit, he informs this Court that, in order to prepare the State for tackling the third wave of COVID-19, which is most likely to adversely affect the health of the children, a State Task Force has been constituted by the Director General, Health and Family Welfare by order dated 24.05.2021. The State Task Force consists of leading Pediatricians and Senior State Health Officials. They have submitted their recommendations to the State Government with regard to the strengthening of infrastructure, availability of equipment, capacity building, treatment protocol, and

referral linkages. In their first meeting conducted on 05.06.2021, they have recommended about administering supplementary micronutrients in the population of age group of zero to eighteen years. According to Annexure No. 1, these micronutrients consists of Zinc, which needs to be administered for ninety days, Vitamin C, Vitamin A for rural population, and Vitamin D-Omega 3 (Fatty Acid) Selenium for rural population. Although, the recommendations claim that these micronutrients need to be administered for ninety days, it is unclear as to when the administering of these micronutrients is supposed to begin? It is equally unclear whether these micronutrients need to be given to the children ninety days prior to their falling ill, or ninety days after their falling ill, or ninety days commencing from the date that they have fallen ill? Hence, these points need to be clarified.

4. This Court has asked Mr. Amit Negi whether these micronutrients are sufficiently available within the State, or not? For, if the scientific community is to be believed, which it should be, the third wave will strike by the second week of August, 2021. Therefore,

considering the lack of time, this Court has asked about the preparedness and availability of these micronutrients.

5. Mr. Amit Negi informs this Court that, since these micronutrients are not available in sufficient quantities, the process for procuring these micronutrients has already commenced. However, as the procedure established by law i.e. the tendering process will take some time, the State Government has decided to reduce the time period for the tendering process.

6. Mr. Amit Negi further informs this Court, in the affidavit, that an Expert Committee has already recommended for management and prevention of COVID-19 in the pediatric age group. The said recommendations have been submitted in the form of Annexure No. 2. However, a bare perusal of the recommendations, along with the affidavit, leaves certain parts unclear. For, according to the recommendations, the pediatric age group has been divided into three categories, namely (i) neonatal age group (upto one month), (ii) one month to two years,

and (iii) above two years to eighteen years. Moreover, while taking care of the newborns/neonates, the group of mother and child have been classified into four groups. According to the recommendations, if the mother is either COVID-19 suspect, or COVID-19 positive, the child needs to be shifted to "Well Baby COVID Ward". Moreover, if the mother is COVID-19 suspect, and the baby is sick, or if the mother is COVID-19 positive, and the baby is sick, the child needs to be shifted either into "SNCU/NICU in the COVID suspect area", or into the "SNCU/NICU in the COVID positive area." However, in the affidavit filed by Mr. Amit Negi, it is unclear whether these "Well Baby COVID Wards" or "SNCU/NICU Wards" have been established so far in the State, or not? Moreover, it is equally unclear whether these "Well Baby COVID Wards" or "SNCU/NICU Wards" have been established in all the District Hospitals, and/or in the Medical College Hospitals, or not? Hence, a clarification is required.

7. Furthermore, the group of affected children has been divided into three categories, namely (i) Mild

Disease, (ii) Moderate Disease, and (iii) Severe Disease. For each category, even the medical treatment has been prescribed, which includes the use of “blended or controlled oxygen”, which includes the administering of certain medications, which may, in the case of severe disease, include putting the child under ventilator. Therefore, this Court has asked Mr. Amit Negi if the medicines and equipment are readily available for the use of children or not? For, according to the chart contained in the affidavit, District Hospital, Dehradun has merely ten ICU beds, and ten ventilators available within its premises. Moreover, according to the affidavit, District Rudraprayag, a hilly region of the State, has merely eight ventilators, and all the eight ventilators are presently dysfunctional. Moreover, although six portable ventilators are available, out of these only two are functional, and four are dysfunctional. Therefore, this Court has asked Mr. Amit Negi with regard to the preparedness of the Medical Health System for dealing with children, who may be found to be suffering from severe disease caused by COVID-19.

8. According to Mr. Amit Negi, the Government is endeavoring to strengthen all the District Hospitals. Moreover, according to Mr. Amit Negi, a child will not be struck by a severe disease overnight, but would develop the symptoms of severe disease over a period of time. Hence, the parents would have sufficient time to shift the child from their villages and hamlets to the nearest Medical College Hospitals where the facilities would be available. But considering the fact that most of the State has hilly terrains, considering the fact that the villages and hamlets are dispersed on the top of mountains, considering the fact that the months of July and August will be the monsoon season, this Court has enquired as to how people would be in a position to transport their children, who might be severely affected from Acute Respiratory Distress Syndrome (for short "ARDS")?

9. According to Mr. Amit Negi, there are 267 ambulances belonging to Dial-108 Emergency Service. Therefore the large number of ambulances available in the State are sufficient for transporting a child gasping for air. According to him, it is not necessary that every

child suffering from ARDS needs to be transported by an ambulance equipped with oxygen tanks, or with oxygen concentrators. In fact, children can also be transported by a normal ambulance belonging to Dial-108 Emergency Service.

10. By order dated 09.06.2021, this Court had also directed Mr. Amit Negi to inform this Court with regard to "the death audit". According to the affidavit, the districts are provided with the Standard Death Audit Format. By letter dated 01.05.2020, the Chief Medical Officers, Principal Medical Superintendents & Medical Superintendents of District and Sub-District hospitals, and Principals of all Medical Colleges of Uttarakhand, were informed to mandatorily audit all deaths due to COVID-19. By way of an illustration that, indeed, the death caused due to COVID-19 is being audited, Mr. Amit Negi has submitted certain documents. However, a bare perusal of the Audit Report submitted by the Chief Medical Officer, Almora clearly reveals that the reasons given for COVID-19 death is, firstly, identical in all the cases. Secondly, all the deaths have been caused by "Cardiopulmonary Arrest" i.e. heart attack.

According to the report, 111 persons in Almora had died due to COVID-19 in the month of May, 2021. However, surprisingly all of them have died due to "Cardiopulmonary Arrest". It is rather surprising that 111 persons have died due to the same cause of death. Moreover, if the report is supposed to mean that the heart had stopped functioning, it is common knowledge that a dead body does not contain a beating heart. Therefore, the reason given for the cause of death is rather suspicious. Therefore, the veracity and validity of such documents cannot be accepted by this Court.

11. Moreover, this Court had directed that the death audit should be accompanied by the relevant and corresponding death certificates. But the said part of the direction, issued by this Court, has not been complied with. Furthermore, it has not even been informed by the Government as to how many persons have died of COVID-19 in the wake of second wave of COVID-19?

12. This Court had also directed the Government to consider the feasibility of creating Isolation Centers at the panchayat level. According to the affidavit, by

the letter dated 11.06.2021, Mr. Amit Negi claims to have corresponded with the Secretary, Disaster Management for creation of the Isolation Centers at the panchayat level. According to him, on 14.06.2021 the Secretary, Disaster Management, has also issued a letter for the creation of the Isolation Centers at the panchayat level. However, the affidavit is absolutely silent on the point as to how many Isolation Centers have, indeed, been established at the panchayat level throughout the State?

13. The affidavit is replete with sentences like *"the State Government is committed to enhance the infrastructure facilities as per the need of the State"*, or with sentences like *"the State Government is making tremendous efforts to tackle the menace of black fungus"*. However, what steps are being taken, and whether the health care infrastructure is being strengthened, and in what manner it is being strengthened, all these vital facts are conspicuously missing from the affidavit.

14. Even with regard to the emergence of black fungus, according to the data released by the

Government, as on 21.06.2021, there are 457 cases of black fungus, and there have been eighty-one deaths so far.

15. According to the affidavit, in order to tackle the menace of black fungus, specialists from Surgery, Ophthalmology and ENT are required. The State, according to the affidavit, has ninety-nine General Surgeons, sixty-seven Ophthalmologist, and forty-seven ENT specialists in Government Medical Facilities. Furthermore, according to the affidavit, two-third of the cases, approximately 302 cases, are presently being treated at the All India Institute of Medical Sciences at Rishikesh. Lastly, according to the affidavit, the patients are being treated "*as per the directions of the Government of India in this regard*". However, what are the directions of the Government of India has not been spelt out in the affidavit.

16. Moreover, according to Mr. Amit Negi repeatedly the State Government has requested the Central Government to provide 10,000 vials of "Liposomal Amphotericin B" and "Amphotericin B" to the State. According to him, letters were sent on

20.05.2021, 31.05.2021 and 12.06.2021. However, the affidavit is silent whether so far any response has been received from the Central Government, or not? Despite the fact that these two sets of medicines are classified as "lifesaving medicines in case of black fungus", it is unknown as to the availability of these two medicines in the State. Hence, a clarification needs to be submitted.

17. Moreover, according to Mr. Amit Negi, the State is also purchasing 4000 Liposomal Amphotericin B injections. But whether these purchases have been completed, or not, is equally unknown? Therefore, it is unclear whether the State is prepared for tackling the emergence of black fungus or not? According to the data available, unfortunately, each week about one hundred cases of black fungus are being reported in the State. Thus, there is a steady increase in the case of black fungus.

18. Mr. Piyush Garg, the learned counsel for the petitioner in Writ Petition (PIL) No. 51 of 2020, submits that although Mr. Amit Negi is claiming that there are a large number of ambulances available in the State to

cater to the needs of the villagers, there are equally large number of villages, which are not connected to the road heads. Moreover, considering the fact that monsoon has already commenced in the State, considering the fact that monsoon brings with it landslides throughout the State, the stand of the Government that “ambulances would be readily available” is a highly doubtful statement. According to Mr. Piyush Garg, it will be extremely difficult, if not impossible, to transport children, who might be severely affected by the third wave of COVID-19, and who might be requiring oxygen immediately, due to the non-connectivity of the villages with the road heads, and due to the landslides caused by the monsoon. Therefore, he suggests that the Government should, in fact, be directed to strengthen the medical facilities in the hilly regions of the State, instead of hoping that people will transport their patients across many miles, and that too across the hilly terrains.

19. Mr. Abhijay Negi, the learned counsel for the petitioner in Writ Petition (PIL) Nos. 97 of 2019 and 67 of 2020, submits that according to the studies dealing

with the second wave of COVID-19, it was observed that the young men/women suffered from what is termed as "happy hypoxia" i.e. a sudden drop in the oxygen level within the body. According to him, this is likely to occur more often among the children. This condition may not even be detected among the children, as children tend to play and run around. Therefore, it will be difficult to transport a child suffering from lack of oxygen across the hilly terrains. Hence, the learned counsel suggests that oxygen should be made available in the hilly regions of the State, and within a reasonable distance from the villages.

20. Mr. Shiv Bhatt, the learned counsel for the petitioner in Writ Petition (PIL) No.58 of 2020, has questioned whether sufficient number of technicians are available for operating ventilators or the oxygen tanks or not? According to him, although the State Government may be buying more ventilators and oxygen tanks, the fact remains that the requisite number of technical manpower is unavailable to operate these equipments. Furthermore, he suggests

that the Non-COVID-19 Hospitals should be demarcated and informed to the public at large. For, instances are not wanting when a Non-COVID-19 patient has gone to a hospital for getting a regular or a normal treatment, and the patient has been turned away by the hospital.

21. Mr. Navnish Negi, the learned counsel for the petitioner in Writ Petition (PIL) No.70 of 2020, informs this Court that even the condition of the Primary Health Centres is pitiable. According to the learned counsel, the Primary Health Centre in Lawali, District Pauri Garhwal does not even have a water connection. Interestingly, the said PHC caters to the needs of thirteen villages around Lawali. Therefore, the learned counsel suggests that the immediate need of the hour is to strengthen the Primary Health Centres which operate at the Village level. Secondly, despite the fact that Mr. Amit Negi, has claimed that isolation centres are being created, there is no information as to how many beds are being placed in these isolation centres? There is no information as to how many isolation centres have been created or erected across the State?

22. Mr. Sandeep Tiwari, the learned counsel for the petitioner in Writ Petition (PIL) No. 61 of 2021, submits that it is imperative that Pediatricians should be posted in each and every District Hospital. For, the third wave of COVID-19, is more likely to adversely affect the health of the children than the health of the adults. Secondly, that even Doctors from the Defense Force Hospitals should be requisitioned by the State, in case the State discovers that there is a dearth of Pediatricians/Doctors for fighting the third wave of COVID-19. Lastly, he submits that, since the burden on Dr. Susheela Tiwari Government Hospital at Haldwani is too great, a separate COVID-19 Care Center should be created at Ramnagar.

23. This Court has already pointed out the lacunae left in the affidavit of Mr. Amit Negi. Therefore, he is directed to clarify the points raised by this Court hereinabove. Moreover, he is directed to clarify whether sufficient quantities of micronutrients have been procured, or not? He is further directed to inform this Court with regard to the creation of isolation centres at the Panchayat level/Village level; the number of beds

which would be available at such isolation centres?
Whether such isolation centres would be equipped with the necessary equipments or not?

Secondly, the number of Pediatricians, who are working at the district hospitals throughout the State.

Thirdly, he is directed to inform this Court with regard to the number of children in each district; the number of villages which are not connected with the road heads; the number of ambulances, not only Dial-108 Emergency Service Ambulances, but even other Ambulances, which are available in each district.

Fourthly, he is directed to inform this Court as to the status of implementation of the recommendations made by the High Powered Committee on the following points: -

(i) The number of "baby well-wards" created in the hospitals; the number of hospitals where such wards have been created.

(ii) The number of ICUs created for treating the children?

(iii) The availability of oxygen tanks/oxygen concentrators at the Primary Health Centres which cater to the needs of the villagers?

Fifthly, Mr. Amit Negi is directed to submit the Death Audit Reports, along with the corresponding death certificates of the deceased, in order to prove his plea that the Death Audit Reports are legally and validly being prepared.

Sixthly, Mr. Amit Negi is directed to ensure that the Primary Health Centre, situated at Lawali, District Pauri Garhwal, is not only strengthened with medical equipments, but also the water connection should be restored forthwith, for the benefit of the public at large that comes to the said PHC.

Seventhly, the State Government is also directed to consider the possibility of requisitioning the doctors from the defence force hospital, in case it finds that number of doctors is not sufficient to tackle the third wave of COVID-19.

Eighthly, the State is directed to increase the number of vaccination in the districts of Uttarkashi, Chamoli and Rudraprayag.

Lastly, the Government is directed to consider the feasibility of establishing a separate COVID-19 Care Centre at Ramnagar so as to lessen the burden upon Dr. Susheela Tiwari Government Hospital at Haldwani.

24. Dealing with the opening of the Char Dham Yatra, Dr. Ashish Chauhan, has submitted his affidavit. According to the affidavit, the State Government has issued Government Order dated 20.06.2021, which provides for the schedule for opening of the Yatra in a phase-wise manner. According to the said G.O., the first phase is about to commence on 01.07.2021. In the first phase, only the residents of District Rudraprayag will be permitted to visit the Kedarnath temple, the residents of District Chamoli will be permitted to visit the Badrinath temple, and the residents of District Uttarkashi will be permitted to visit Gangotri and Yamunotri temples.

25. In the second phase, commencing from 11.07.2021, the Char Dham Yatra will be opened to all the residents of the State of Uttarakhand. However, it is an admitted fact that the Department of Tourism and Culture is yet to issue an SOP/guidelines regarding the Char Dham Yatra. According to the affidavit, it shall be issued *"at the earliest"*.

26. According to the affidavit, police personnel have been deputed on the Kedarnath route and the Badrinath temple; hospitals/medical staff, and medical facilities have been created at Kedarnath, Badrinath, Gangotri and Yamunotri temples.

27. Moreover, according to the affidavit, letters have been issued to the District Magistrates of Uttarkashi, Chamoli and Rudraprayag districts, Director General, Medical Health, Garhwal Mandal, and the Devasthanam Board to furnish the action plan and for commencing the Char Dham Yatra. However, *"the requisite information has still not been received by the State Government"*.

28. However, Mr. Shiv Bhatt, the learned counsel, submits that the vaccination programmes being carried out in the districts of Uttarkashi, Rudraprayag and Chamoli are proceeding at a slow pace. According to the learned counsel, District Uttarkashi has a total population of 3,76,298. The details of the persons, who have been partially or fully vaccinated in District Uttarkashi is as follows :-

| District Uttarkashi (Total Population 3,76,298) | | |
|--|--|---|
| Age group | Partially vaccinated (1st Dose Coverage) | Fully vaccinated (Both doses Coverage) |
| >45 | 76,408 | 38,496 |
| 18 to <45 | 41,121 | 1,672 |
| Total | 1,17,529 | 40,168 |
| Grand total | 1,57,697 | |

29. Therefore, the learned counsel submits that, out of a total population of 3,76,298, only 1,57,697 persons have been inoculated against coronavirus in District Uttarkashi.

30. Likewise, District Rudraprayag has a total population of 2,76,205. The details of the persons, who have been partially or fully vaccinated in District Rudraprayag is as follows:-

| District Rudraprayag (Total Population 2,76,205) | | |
|---|--|---|
| Age group | Partially vaccinated (1st Dose Coverage) | Fully vaccinated (Both doses Coverage) |
| >45 | 55,318 | 16,492 |
| 18 to <45 | 45,763 | 1,402 |
| Total | 1,01,081 | 17,894 |
| Grand total | 1,18,975 | |

31. Therefore, the learned counsel submits that, out of a total population of 2,76,205, only 1,18,975 persons have been inoculated against coronavirus in district Rudraprayag.

32. Likewise, District Chamoli has a total population of 4,46,430. The details of the persons, who have been partially or fully vaccinated in District Chamoli is as follows :-

| District Chamoli (Total Population 4,46,430) | | |
|---|--|---|
| Age group | Partially vaccinated (1st Dose Coverage) | Fully vaccinated (Both doses Coverage) |
| >45 | 93,422 | 30,382 |
| 18 to >45 | 39,834 | 1,503 |
| Total | 1,33,256 | 31,885 |
| Grand total | 1,65,141 | |

33. Therefore, the learned counsel submits that, out of a total population of 4,46,430, only 1,65,141 persons have been inoculated against coronavirus in District Chamoli.

34. Hence, according to the learned counsel, the non-inoculated persons, living in the districts of Uttarkashi, Rudraprayag and Chamoli, may either be the carriers and transmitters of the coronavirus, or may be the receivers of coronavirus from others i.e. from anyone coming to these districts from outside. Therefore, this Court should stay the proposal of the Government to open up the Char Dham Yatra.

35. Furthermore, as mentioned by Mr. Shiv Bhatt, the learned counsel, and not controverted either by Mr. Amit Negi, nor by the learned Advocate General for the State, the inoculation programmes in the districts of Uttarkashi, Rudraprayag and Chamoli are proceeding at a slow pace. This clearly implies that the local residents have not been inoculated against coronavirus. Thus, either they may be the carriers of the coronavirus, or may be adversely affected by coronavirus from those who may be coming throughout the district. Such a scenario would not only endanger the lives of the local population, but may also spread coronavirus from the local population to the incoming population. Thus, it would be highly impractical, if not

foolhardy, to commence the Char Dham Yatra in the near future.

36. According to the press reports, for example, as indicated in India Today, dated 22.06.2021, the Scientific Community has already discovered the existence of "*Delta Plus variant*". According to Virologist Shahid Jameel, the said "*Delta Plus variant*" may defeat the vaccines, anti-bodies, and the infection-induced immunity against Sars-2. Moreover, according to a Scottish study, published in the magazine "The Lancet", the "*Delta Plus variant*" poses almost twice the risk of hospitalization as compared to the earlier "*Alpha variant*". Furthermore, "*Delta Plus variant*", is beginning to emerge as a deadly disease. For, its transmissibility is at a high rate. It directly affects the functioning of the lungs; it will require a longer period of hospitalization; it has greater resistance to the medicines available; the variant is likely to escape from available COVID-19 medicines, thereby implying that the "*Delta Plus variant*", will continue to survive and thrive within the human body despite the COVID-19 vaccination.

37. On 22.06.2021, the Health Secretary, Union of India, has already issued an alert to Maharashtra, Kerala, and Madhya Pradesh on 22.06.2021, clearly bringing to the notice of all the three State about the emergence of the "*Delta Plus variant*". In fact, the "*Delta Plus variant*" has already started spreading in two districts of Maharashtra. Therefore, the Government of Maharashtra has been directed to immediately create containment zones in these two districts. Furthermore, according to the Scientific Community, while "*Delta variant*", which was the cause of the second wave of COVID-19, took about a month to spread its tentacles throughout the country, the "*Delta Plus variant*", being highly transmissible, will take lot less time to affect the entire country.

38. Therefore, this Court directs the State Government to review its decision to open the Char Dham Yatra from 01.07.2021 for the following reasons:

Firstly, the emergence of "*Delta Plus variant*" which has already started affecting the Madhya Pradesh and other Southern states, will

soon spread to other parts of the country, including Uttarakhand.

Secondly, the statement given by the Director, All India Institute of Medical Science, New Delhi, that India will be hit by the third wave of COVID-19 pandemic by August, 2021.

Thirdly, in view of the COVID-19 pandemic which still continues to play *havoc*, the Jammu and Kashmir administration has already decided to cancel the Amarnath Yatra scheduled for this year.

Fourthly, a perusal of data available clearly indicates that Uttarakhand had permitted the Kumbh Mela between 01st April to 30th April. According to the media reports, 59% of deaths which occurred in Uttarakhand due to COVID-19 occurred in the month of May, 2021. Thus, there is a clear co-relation between the holding of Kumbh Mela in April, 2021, and the consequent deaths which occurred in Uttarakhand in May, 2021. Furthermore, it is common knowledge that in April and in May, 2021, the entire country was

devastated by the second wave of COVID-19. The chaos and calamity need not be described in any detail. For, the impact of the second wave is well-known.

Fifthly, recently, on 20.06.2021, on the occasion of *Ganga Dussehra*, lakhs of people were permitted to gather at Har-ki-Pauri at Haridwar. According to the media reports, the SOP dealing with the precautions to be taken for COVID-19 was observed more in breach than in compliance. There was neither any social distancing maintained at Har-ki-Pauri, nor people had bothered to wear masks. The Civil Administration of Haridwar had permitted lakhs of people to gather at Har-ki-Pauri, without even caring about the consequence of such a large gathering of people during the present times.

Sixthly, even yesterday on 22.06.2021, *Neem Karoli Baba Temple* (Kainchi Dham) was permitted to open the doors of its shrine to thousands of devotees, who poured into the temple. Even there, the Civil Administration could

not ensure that masks were worn, or social distancing was maintained.

Seventhly, according to the affidavit, filed by Dr. Ashish Chauhan, there is hardly any medical facility which is available at the Char Dham. Therefore, the possibility of a large congregation descending on the temples and shrines of Char Dham cannot be ruled out. Already holding of Kumbh Mela, and in permitting a large congregation of lakhs of people on Ganga Dussehra at Har-ki-Pauri at Haridwar are clear cut proof of the failure of the Civil Administration, to administer the precautionary SOPs prescribed by the Central Government and the State Government. Once the devotees start gathering in large number, invariably the first victim is the SOP itself; the second victims are the people at large.

Eighthly, according to the affidavit filed by Dr. Ashish Chauhan, the Tourism Department is yet to prepare the SOP for opening the Char Dham Yatra.

Ninthly, the State should also consider the feasibility of live streaming of the ceremonies of the Char Dham Shrines for the benefit of the people throughout the country. After all, the same technology and procedure is being adopted by various temples across the country. Such live streaming will give easy access to the devotees to have the Darshan of the deity, and would permit them to pay their obedience to the deity, while keeping the devotees safe from coronavirus.

Lastly, and most importantly, the Country has already been warned that the third wave of COVID-19 will hit our children from pre-natal age group to eighteen years. If the children are lost or are being sacrificed at the altar of COVID-19, the loss will not only be of the parents, but also be of the nation at large.

39. Considering the fact that large gathering invariably leads to a spike in the COVID-19 pandemic, this Court is of the firm opinion that a catastrophe like COVID-19 pandemic should not be re-invited by holding and permitting large gathering at religious shrines, and

by permitting the Char Dham Yatra by the State Government.

40. Therefore, this Court directs the State Government to review its decision to commence the Char Dham Yatra on 01.07.2021. Perhaps the Char Dham Yatra needs to be postponed or cancelled, as already the Amarnath Yatra has been cancelled by the Jammu & Kashmir administration.

41. This Court is well-aware that the cancellation of the Yatra may cause financial difficulties for the residents of the Char Dham. However, it is more important to save the lives of the people. Furthermore, the Government is free to announce "economic stimulus plans" for the benefits of the businessmen and the tourism industry which depends on the pilgrims visiting the Char Dham. As far as the religious sentiments of the people are concerned, this Court is of the opinion that live streaming from the Char Dham shrines can be done for the benefit of the people of the country. Such live streaming would permit the devotees to witness the deity, to pay reverence to the deity, and yet save the lives of the people. Hence, it is imperative

that the decision of the State Government should be reviewed.

42. Once these factors were pointed out by this Court to Mr. Om Prakash, the learned Chief Secretary, he has given an undertaking that the decision shall be reviewed by the Hon'ble Cabinet. He further submits that the decision of the Hon'ble Cabinet will be informed to this Court on 28.06.2021.

43. Mr. Om Prakash, the learned Chief Secretary, and Dr. Ashish Chauhan, the learned Additional Secretary, Culture & Religion Affairs Department, are directed to appear before this Court on 28.06.2021 through *video conferencing*, and inform this Court with regard to the decision, if any, taken by the Hon'ble Cabinet about the opening of the Char Dham Yatra.

44. Mr. Amit Negi, the learned Secretary, Medical Health and Family Welfare, is directed to appear along with Mr. Om Prakash, and Dr. Ashish Chauhan, before this Court on 07.07.2021 through *video conferencing*. Mr. Amit Negi is also directed to submit his report by 06.07.2021.

45. The Registry is directed to list this case on 28.06.2021, as the first case in the cause-list.

RAGHVENDRA SINGH CHAUHAN, C.J.

ALOK KUMAR VERMA, J.

Dt: 23rd June, 2021
RAHUL