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**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. 140 of 2019**

**25<sup>th</sup> MAY, 2021**

**BETWEEN:**

Think Act Rise Foundation

Through Arjun Kasana. ....Petitioner

Vs.

State of Uttarakhand and others. ....Respondents

Counsel for the petitioner: Mr. Arjun Kasana,  
petitioner, party-in-person.

Counsel for the respondents: Mr. S.N. Babulkar, learned  
Advocate General with Mr.  
Pradeep Joshi, learned  
Standing Counsel for the  
State of Uttarakhand.

**WITH**

**WPIL NO. 6 OF 2012**

**WPMS NO. 2603 OF 2019**

**WPIL NO. 79 OF 2020**

**WPIL NO. 203 OF 2020**

**The Court made the following:**

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

A supplementary affidavit has been filed by  
Mr. Arjun Kasana, the petitioner, party-in-person.

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According to Mr. Kasana, "Van Gujjars" are the largest forest dwelling community in Uttarakhand. "Van Gujjars" have been residing in the forest areas for last more than hundred years. During this part of the year, they come down to the lower areas of the State. A few of the families of the "Van Gujjars" have migrated to Govind Pashu Vihar National Park, Uttarkashi. Since these families are valid permit holders of the Park, they should be permitted to enter the park to eke out their living in the forest itself. However, ever since they have reached the Park, they are not being permitted to enter the Park by the Deputy Director of the Park, Mr. Komal Singh. Therefore, these families are forced to live in open tents under the sky. Moreover, due to the Covid-19 pandemic and due to the lock-down, these families cannot sell their milk to the neighbouring villages. Thus, these families are reduced to hand to mouth existence. In fact, their lives have been reduced to "below animal existence". For, they have neither any shelter to live in, nor any economic means to survive. Hence, the petitioner, party-in-person, prays that immediate arrangements should be made for these

families by the District Magistrate, and by the Deputy Director of the Park.

2. On the other hand, Mr. S.N. Babulkar, the learned Advocate General, informs this Court that migration of these persons may endanger the wildlife within the Park. For, Corona Virus may spread from human beings to animals. Hence, until and unless the families are declared to be negative in Corona Virus test, they cannot be permitted to enter the Park.

3. In rejoinder, Mr. Kasana submits that it is the duty of the Government to test these persons, and if they are found to be negative, then they should be permitted to enter the Park. Till they are tested, a reasonable arrangement should be made to save their lives. According to Mr. Kasana, under Article 21 of the Constitution of India these persons have as much right to live as any other citizen. In order to buttress his pleas, Mr. Kasana has submitted certain photographs along with the Supplementary Affidavit.

4. Heard Mr. Arjun Kasana, the petitioner, party-in-person, and Mr. S.N. Babulkar, the learned Advocate General for the State of Uttarakhand.

5. A bare perusal of the photographs submitted with the Supplementary Affidavit clearly reveal that families are forced to live in open tents, in open field, under the open sky. The photographs also show small children, and new born babies, being wrapped in blankets, and sleeping on the ground. The photographs also reveal that some cattle are tied next to the tent, and some cattle have died.

6. It is, indeed, trite to state that Article 21 of the Constitution of India forbids the State from reducing the lives of its people below the animal existence. Every citizen not only has a right to live, but also has a right to live with dignity. However, it seems that the callous attitude of the Deputy Director of the Park, and of the Civil Administration has forced these families to survive in conditions, which are below the animal existence.

7. Therefore, *prima facie*, the fundamental right to life under Article 21 of the Constitution of India is being violated by the respondents. Therefore, this Court directs the Collector, District-Uttarkashi, and the Deputy Director of the Park to ensure that these families are comfortably accommodated in "Pacca

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houses". They shall be provided with food, water, and medicines. They shall also be provided with fodder for their cattle. It is further directed that all the families shall be tested for Covid-19. In case, they are found to be negative, and if they are valid permit holders, arrangements shall be made to permit them to enter the Park for the duration allowed by law.

8. The District Magistrate, District-Uttarkashi, and the Deputy Director of the Park are directed to submit their reports with regard to the substantial steps taken by them to implement the directions issued by this Court. The said reports shall be submitted on or before 15<sup>th</sup> June, 2021.

9. Let a certified copy of this order be furnished to the parties, on payment of the prescribed charges, today itself.

10. List this case on 16.06.2021.

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**RAGHVENDRA SINGH CHAUHAN, C.J.**

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**ALOK KUMAR VERMA, J.**

Dt: 25<sup>th</sup> May, 2021  
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