

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition (PIL) No. 58 of 2020
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

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

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

Mr. S.N. Babulkar, learned Advocate General assisted by Shri C.S. Rawat, learned Chief Standing Counsel and Shri Anil K. Bisht, learned Additional Chief Standing Counsel for the State of Uttarakhand.

Mr. Rakesh Thapliyal, learned Assistant Solicitor General for the Union of India.

Date: **13th January, 2021**

Coram: **Hon'ble Raghvendra Singh Chauhan, C.J.**
Hon'ble Manoj Kumar Tiwari, J.

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

1. This bunch of Public Interest Litigations has been filed before this Court with regard to the tackling of COVID-19 pandemic in the State of Uttarakhand. While this Court has been monitoring the ways and means employed by the State Government for dealing with the pandemic, the attention of this Court has been drawn to the proposed holding of the Kumbh Mela, 2021, from 27.02.2021 to 27.04.2021, i.e. for two months.

2. By the order dated 11.01.2021, this Court had requested the learned Chief Secretary, the learned Secretary, Public Health, the District Magistrate, Haridwar, and the Mela Adhikari to be present before this Court through *Video Conference*. Consequently, today this Court has the benefit of having Mr. Om Prakash, the learned Chief Secretary, State of Uttarakhand, Mr. Amit Negi, the learned Secretary, Medical Health and Family Welfare, Mr. Deepak Rawat, the Mela Adhikari, and Mr. C. Ravishankar the District Magistrate, Haridwar before this Court through *Video Conference*.

3. It is, indeed, trite to state that Kumbh Mela is an event, which attracts the largest number of devotees. According to the Guinness Book of World Records, the Kumbh Mela has the largest number of people congregating at a given spot. According to tradition, while complete Kumbh Mela (Purna Kumbh Mela) is organized every twelve years, the half-kumbh mela (Ardh-Kumbh Mela) is organized every six years in different parts of the country. Mostly, the Kumbh Melas are organized in Northern India. The full Kumbh Mela, which generally attracts about a million people, is

scheduled to be held as aforementioned in Haridwar district on the date mentioned hereinabove.

4. Since a large gathering of people generates a potential danger for the spread of COVID-19 pandemic, the concern of this Court has been to find out as to how the Civil Administration of Haridwar district proposes to deal with the influx of a large population, which will descend upon the Haridwar city/district during the period the Kumbh Mela would be celebrated.

5. It is interesting to note that, keeping in mind the potential threats that may emerge for the spread of the pandemic, the State Government has wisely taken a decision to postpone the Kumbh Mela from January 14th, 2021 (the traditional date for the commencement of the Kumbh Mela) to February 27th, 2021. The celebration was postponed with the fond hope that by the end of February, 2021, the impact of the COVID-19 pandemic would be reduced. However, there seems to be no end to the pandemic. Although at the national and the state level the number of cases is declining, but already there is a second wave of COVID-19 that has started spreading its tentacles throughout the world.

6. Moreover, recently the scientific community has announced the discovery of three different strains of Coronavirus, namely, the U.K. Strain, the Nigerian Strain and the Brazilian Strain. These strains are of viruses which have mutated themselves; the mutated virus has become more deadly. According to the scientific community, the mutated virus is highly contagious i.e. it can easily spread from one person to the other at a faster speed than the normal Coronavirus, which has affected the world at large. According to the media reports, all the three mutated viruses have already entered the country. Cases of the three strains of the coronavirus have been reported from different parts of the country. Considering the mass movement of people during Kumbh Mela, considering the congregation of thousands and lacs of people, the possibility of the State emerging as a hot bed for spread of Coronavirus cannot be ruled out.

7. Keeping in mind the massive congregation that is expected at Haridwar during the celebration of the Kumbh Mela, this Court has posed certain questions to the learned Chief Secretary, and to the learned Secretary, Medical Health and Family Welfare.

8. Shri Om Prakash, the learned Chief Secretary, State of Uttarakhand informs this Court that the State Government expects about 10,00,000 people to attend the Kumbh Mela on a regular day, and about 50,00,000 people to attend the Kumbh Mela on the special days. According to him, presently there are seven hospitals, which are functioning in Haridwar city; there are seventy-three Covid Care Centers, which are functioning in Haridwar. Further, the All India Institute of Medical Sciences (AIIMS) has a hospital in Rishikesh. Moreover, there are two Covid Care Centers, which are operating in Rishikesh. Furthermore, according to the learned Chief Secretary, there are 1748 beds available with the government, and private hospitals, which are running in Haridwar. If the beds, which are available in the referral hospitals, were to be taken into account, there would be an availability of approximate 5000 beds. In order to augment the present medical facility available in Haridwar and Rishikesh area, the Government proposes to establish five temporary hospitals with a capacity of twenty beds each; twenty-three temporary hospitals with a capacity of ten beds each; one temporary hospital with a capacity of four

beds; nine temporary hospitals with a capacity of one bed each; and one temporary hospital with a capacity of 150 beds. Thus, 493 more beds would be added to the already 5000 available beds. Thus, there would be sufficient number of beds for the incoming population.

9. The learned Chief Secretary further informs this Court that, although advisories have been issued to the other States requesting them not to send too many pilgrims to Haridwar during the Kumbh Mela, and though the said advisories clearly state that the registration of children and old people will be highly discouraged by the State Government, but it is not possible for the State Government to close its borders.

10. Similarly, Shri Amit Negi, the Secretary, Medical Health and Family Welfare, informs this Court that the State Government has formulated a concrete strategy for dealing with the influx of ten lakh/fifty lakh persons, who will be visiting Haridwar during the celebration of the Kumbh Mela. According to both the learned Chief Secretary and the Secretary, Medical Health and Family Welfare, the number of buses and trains would be curtailed. According to the learned Chief Secretary, there are twelve trains that enter the

State on a daily basis. Therefore, the number of these trains would be reduced so as to discourage the arrival of large number of pilgrims. Furthermore, according to the Secretary, Medical Health and Family Welfare, the State Government does not plan to erect any tents for housing such a large number of pilgrims. According to him, the lack of available accommodation would discourage people from attending the Kumbh Mela. According to both the learned Chief Secretary and the learned Secretary, Medical Health and Family Welfare since the borders of the State cannot be closed, the cars and buses would be permitted to enter the State. However, it will be required that everyone intending to visit Haridwar during the Kumbh Mela would necessarily have to carry a COVID-19 medical certificate, certifying the fact that the said person is COVID-19 *“negative”*. Such certificates, of the persons coming into the State, would be checked randomly by the deputed officers and personnel at the State borders, at the railway stations, and even at the airports.

11. Furthermore, according to Shri Amit Negi, the Secretary, Medical Health and Family Welfare, registration of persons would be done. Moreover, SOPs

have already been issued to the "*dharamshalas*" and "*hotels*" of Haridwar and Rishikesh, which specifically deal with the necessity of convincing people to use masks, sanitizers, and to maintain social distancing while they are housed in the dharamshalas and hotels. Furthermore, in order to discourage people from violating the safety protocols, the Government has already proposed that fines will be imposed upon those, who violate the safety measures. Further, the Government will provide masks to those who will stay for the Kumbh Mela. Lastly, about 8000 police personnel will be deployed and more persons from paramilitary forces will be utilized in order to ensure that social distancing is maintained, in order to ensure that people do follow COVID-19 protocols both in letter and spirit. Thus, both the Chief Secretary and the Secretary, Medical Health and Family Welfare claim that the State Government has made suitable preparations necessary to prevent the introduction of, and the spread of COVID-19 pandemic in the State, in general, and in Haridwar district, in particular.

12. Shri Shiv Bhatt, the learned counsel for the petitioner in Writ Petition (PIL) No. 58 of 2020, on the

other hand, submits that the statements made by the learned Chief Secretary and the learned Secretary, Medical Health and Family Welfare are not buttressed by any documentary evidence. For example, we do not even know where the five temporary hospitals are being constructed? We do not know what exact advisories have been issued? Further, it is not known as to how many beds, out of a total of 5493 beds, would be equipped with ventilators, or with oxygen cylinders. Therefore, according to the learned counsel, the medical infrastructure is woefully lacking for the Haridwar Civil Administration to tackle an influx of ten/fifty lakh people coming into the Haridwar and Rishikesh area during the Kumbh Mela. Furthermore, according to the learned counsel, the civil construction and the availability of roads and flyovers, which would help the flow of traffic throughout the city and, especially, the *ghats*, where the pilgrims will be taking bath, is woefully lacking. According to the learned counsel, a large number of flyovers are yet to be constructed completely. For example, the construction work of the road at Raiwala Under-Bridge is completed only to the extent of ten percent; the construction work of the flyover at Chiddarwala Elephant Corridor is

completed only to the extent of fifty percent; the bridge near Sharvanand Ghat road is completed only to the extent of thirty percent; the bypass road to Roorkee is completed only to the extent of forty percent. Therefore, according to the learned counsel, Haridwar would witness massive traffic jams. Such traffic jams would necessarily mean that a large number of people will be caught on the roads. Moreover, the possibility of a stampede cannot be ruled out. Lastly, the learned counsel has questioned the statement made by the learned Chief Secretary with regard to reducing the number of trains reaching the State. For, the Central Government has already announced that four special trains would be running, from different parts of the country, to Haridwar, for the benefit and convenience of the people.

13. Similarly, Shri Piyush Garg, learned counsel for the petitioner in Writ Petition (PIL) No. 51 of 2020, submits that Haridwar already has a population of 20,00,000 people. According to the government estimate, 10,00,000 pilgrims will enter Haridwar on a normal day of Kumbh Mela; on the special days, the number of persons entering the city of Haridwar would

be 50,00,000. Therefore, atleast on special days, the population of Haridwar would suddenly explode to approximately to 70,00,000. Yet, according to the figures given by the State Government, they would have only 5493 beds available for a large population of seventy lakh. Therefore, according to the learned counsel for the petitioner, the health-care system will collapse instantly; there will not be any ways and means of controlling the spread of COVID-19. The situation will further be aggravated by the introduction of the newly discovered strands of COVID-19 from the foreign countries.

14. In rejoinder, the learned Chief Secretary informs this Court that the main Hospital at Haridwar, called the Government Mela Hospital, has an ICU of ten beds; the AIIMS Hospital in Rishikesh has an ICU of 200 beds; there are 165 beds equipped with oxygen cylinders; and 880 normal beds available at AIIMS, Rishikesh.

15. Moreover, Shri Amit Negi, the Secretary, Medical Health and Family Welfare, informs this Court that Uttarakhand has sufficient number of oxygen tanks manufacturing units. Therefore, there would be a

sufficient number of oxygen tanks, which would be readily available for the use of the hospitals in Haridwar. However, when this Court asked Shri Amit Negi as to the number of orders which have been placed with such manufacturers for the supply of oxygen tanks for the use of the hospitals, he could not answer this query of the Court. The only rosy promise he has made to this Court is that this Court need not fear, for the State Government is absolutely equipped to tackle any requirement at any moment. According to Shri Amit Negi, the State Government has taken sufficient concrete steps to prevent the spread of COVID-19 during the celebration of Kumbh Mela at Haridwar.

16. Shri Deepak Rawat, the Mela Adhikari, informs this Court that there are two National Highways which leads into, and criss-cross Haridwar; there is a straight road which is about thirty ft. wide, which leads towards *Har Ki Pauri*, which is the center of the Kumbh Mela. According to him, the Motichur Flyover is presently unfinished to an extent of fifteen percent. However, the NHAI has assured the State Government that they would complete the remaining fifteen percent

construction, and would handover the possession of the flyover by the end of January, 2021.

17. Shri Rakesh Thapliyal, the learned Assistant Solicitor General of India, informs this Court that the Central Ministry has written a letter to the learned Chief Secretary, State of Uttarakhand requesting certain vital information such as the expected number of devotees, the auspicious days (and the expected crowd surge), the arrangements being put in place by the State Government, including medical care arrangements, in consonance with the guidelines already issued with respect to the COVID-19 by the Government of India from time to time. He further submits that until and unless this essential information is supplied by the State Government, it is not possible for the Central Government to issue any SOP for the Kumbh Mela, 2021.

18. Heard the learned Chief Secretary, the Secretary, Medical Health and Family Welfare, the learned Mela Adhikari, the learned counsel for the petitioners, the learned Advocate General, and the learned Assistant Solicitor General for the Union of India.

19. Needless to say, it is the foremost duty of the State to protect the people from the COVID-19 pandemic. It is the foremost duty of the State to ensure that the lives of the people are not reduced to a mere animal existence. Therefore, while trying to organize a mega event, which is the largest congregation on the Planet Earth, it is the duty of the State to be thoroughly equipped for any contingency that may arise during the period of two months when the Kumbh Mela would be celebrated.

20. A bare perusal of the data submitted by the learned Chief Secretary, and the Secretary, Medical Health and Family Welfare, clearly reveals that the medical health care system is woefully lacking; it is too ill-prepared to tackle the demographic explosion that Haridwar is about to witness within a month. The availability of 5493 beds, with hardly 500 ventilators attached to 500 beds, is certainly an insufficient number of ventilators and beds available. Since Haridwar already has a residential population of twenty lakh, with the influx of fifty lakh people, the population is going to certainly skyrocket. Yet, the State

Government is convinced that 5493 beds would be sufficient to tackle the COVID-19 pandemic.

21. Moreover, most surprisingly, while the State Government expects the entry of ten/fifty lakh people, it has no plans of constructing or erecting any tents for housing such a large population. It is rather inconceivable as to where ten/fifty lakh persons would be housed in the dead of the winter? For, the city of Haridwar certainly would not have sufficient rooms available either in its dharamshalas, or its hotels or its motels for accommodating ten/fifty lakh people. The influx of such a large population would challenge the civic amenities available in the city and the district. Therefore, the stand taken by the State Government is rather enigmatic.

22. Considering the facts mentioned hereinabove, this Court directs the State Government as under :-

22.1 Firstly, to immediately reply to the letter received from the Central Government, and to submit the necessary information to the Central Government

so that the Central Government can immediately issue SOP for the Kumbh Mela, 2021.

22.2. Secondly, the State Government should also consider erection of sufficient number of tents, and the creation of tented layout, for housing such a large number of persons (approximately ten to fifty lakh) who would come to Haridwar city/district during the Kumbh Mela.

22.3. Thirdly, this Court further directs the State Government to seriously consider the increase in the medical health care system, both in terms of the physical infrastructure, in terms of the human resources, and in terms of the availability of the medical equipment which would be required in case the COVID-19 pandemic would spread its wings during the period of two months when the Kumbh Mela would be celebrated.

22.4. Fourthly, this Court directs the State Government to immediately get in touch with the other State Governments, across the country, and to inform the public at large about the arrangements being made by it, about the necessity of reducing the number of

persons entering the State, and coming to Haridwar for Kumbh Mela.

22.5. Fifthly, the State is further directed to coordinate its effort under the guidance of the Central Government for tackling such a large gathering of people. For, the repercussions of the spread of COVID-19 would not be limited only to the State of Uttarakhand, but it may also impact the entire country as a whole.

23. The learned Advocate General is directed to submit a detailed report about the points mentioned hereinabove, with regard to the concrete steps taken by the Government vis-à-vis the directions issued by this Court. The report should further include the details about the availability of infrastructure in the Kumbh Mela area in particular, and in Haridwar city in general. The said report shall be submitted by the State on or before 15.02.2021. A copy of the said report shall be furnished to the learned counsel for the petitioners. The learned counsel for the petitioners shall be free to file any reply thereto dealing with the claims made in the report.

24. This Court further directs the District Judge, Haridwar to submit a report with regard to the availability and the extent of health care system functioning in Haridwar, both in the government sector and the private one. He is further directed to inform this Court with regard to the number of hospitals, which are functioning; with regard to the availability of total number of beds; with regard to the availability of total number of beds equipped with ventilators; with regard to the availability of total number of beds equipped with oxygen cylinders; with regard to the general beds available with the hospitals. He shall further inform this Court with regard to the existence of ICUs in the hospitals, and the number of beds available in the ICUs. He is further directed to inform this Court with regard to the health care infrastructure available in Rishikesh on the points mentioned above. He shall submit his report before this Court on or before 15.02.2021. A copy of the said report shall be given by the learned Registrar General to the learned counsel for the petitioner. A copy of this order shall be sent by the Registrar General to the District Judge, Haridwar.

25. The learned Chief Secretary, the learned Secretary, Medical Health and Family Welfare, the Mela Adhikari and the District Magistrate, Haridwar are requested to be present through *Video Conference* before this Court on 22.02.2021.

26. The Registry is directed to list this case on 22.02.2021 as the first case in the cause-list.

(Raghvendra Singh Chauhan, C.J.)

(Manoj Kumar Tiwari, J.)

Dt: 13th January, 2021
Rahul