

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

THE ACTING CHIEF JUSTICE SHRI SANJAYA KUMAR MISHRA

AND

JUSTICE SHRI RAMESH CHANDRA KHULBE

Writ Petition (PIL) No.68 of 2022

Dated: 22ND June, 2022

Ashish Kumar Garg Petitioner.

Vs.

State of Uttarakhand and Another.
..... Respondents.

Present: -

Mr. Abhijay Negi, learned counsel for the petitioner.

Mr. C.S. Rawat, learned C.S.C. along with Mr. Pradeep Joshi, learned Addl. C.S.C. and Mr. Gajendra Tripathi, learned Brief Holder for the State.

Upon hearing the learned Counsel, the Court made the following

ORDER: (per the Acting Chief Justice Shri Sanjaya Kumar Mishra)

By filing this PIL, the petitioner has sought a writ of mandamus against the respondents especially, State of Uttarakhand to stop felling of trees for the purpose of widening of road from Jogiwala/Ladpur/Sahastradhara Crossing/ Krishali square/Pacific golf estate in which approximately 2057 trees are earmarked for felling. This Court while issuing notice on 11.05.2022 directed in the interregnum that in pursuance of the proposed road widening no trees shall be felled by the respondents. In the meantime, the respondents have filed their counter affidavit and they

have stated that widening of the road is very much necessary for the proper development of communication and tourism in the State of Uttarakhand and that they proposed to transplant the precious trees and fruit-bearing trees but they want to fell certain trees which are not very ecology friendly, viz., eucalyptus.

2. Learned counsel for the petitioner would raise objections to the felling of eucalyptus trees also on the ground that a report has been submitted that such trees are also good for the ecology and have cooling effect on the ecology. However, we do not agree with the findings of that report, which appears at page 61 of the rejoinder affidavit to the counter affidavit filed by respondent no.1, as it is well-known that eucalyptus trees have adverse effect on soil conservation and soil texture and has also adverse effect on the water table of that area.

3. So we, after having given anxious thought to this serious issue of conflict between man and nature, the requirement of development and protecting ecology and environment, have come to the conclusion that we should accept the proposal submitted by the State of Uttarakhand through Executive Engineer, PWD, Rishikesh with certain modifications.

4. In that view of the matter, we modify the earlier order dated 06.04.2022 with the following directions:-

a) That widening of the road shall continue but, out of 2057 trees that is proposed to be felled, only 1006 eucalyptus trees are allowed to be felled by the authorities in the widening of road. As far as 79 trees are concerned, as

per the counter affidavit they shall remain, as is where is basis and they shall not be cut or harmed in any way. Regarding the rest 972 trees, which include valuable fruit bearing trees belonging to the precious flora of Sub-Himalayan region shall be transplanted to a suitable place as undertaken by Mr. C.S. Rawat, learned Chief Standing Counsel for the State as well as by Mr. Dharendra Kumar, Executive Engineer, PWD, Rishikesh Division.

b) We further direct that the respondents shall also plant appropriate trees, in addition to construction of the road and transplantation of trees existing thereon, as per the recommendations of DFO, Mussoorie on both sides of the proposed road. Not only such trees shall be planted but appropriate steps shall be taken in the next five years for their protection, watering and manure/ fertilizer etc. and then in every six months State Government will submit a report regarding it.

5. With such observations, the matter be listed after six months awaiting the report of the concerned authorities. The first report will be submitted in the second week of December, 2022.

SANJAYA KUMAR MISHRA, A.C.J.

RAMESH CHANDRA KHULBE, J.

Dated: 22nd June, 2022
SS/RB