

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (PIL) No. 74 of 2019

Rakshit Joshi

.....Petitioner

Vs.

State of Uttarakhand and others.

...Respondents

Sri B.P. Nautiyal, learned Senior Counsel assisted by Sri M.C. Pant, learned counsel for the petitioner.

Sri Paresh Tripathi, learned Chief Standing Counsel for the State of Uttarakhand / respondent nos. 1 to 4, 6, 7 & 10.

Sri Aditya Pratap Singh, learned counsel for respondent no. 9.

Sri Virendra Kaparwan, learned Standing Counsel for the Union of India / respondent nos. 5 & 8.

Sri Narendra Bali, learned counsel for respondent no. 11.

Sri T.S. Bindra, learned counsel for respondent nos. 12 and 13.

Sri Arvind Vashisth, learned Senior Counsel assisted by Sri Imran Ali, learned counsel for respondent no. 14.

Sri Sandeep Kothari, learned counsel for the GMVN.

Dated: 18th June, 2019

Coram: Hon'ble Ramesh Ranganathan, C.J.
Hon'ble Alok Kumar Verma, J.

Ramesh Ranganathan, C.J. (Oral)

We had, by our order dated 17.06.2019, requested Sri Paresh Tripathi, learned Chief Standing Counsel for the State of Uttarakhand, to ascertain whether the subject lands, where the marriage celebrations are being held, forms part of the meadows/Bugyals; and is, consequently, covered by the judgment of the Division Bench in Writ Petition (PIL) No. 123 of 2014 dated 21.08.2018.

2. Today Sri Paresh Tripathi, learned Chief Standing Counsel for the State of Uttarakhand, would submit, on instructions, that, while there exists a meadow at a distance of 4 km from the venue, the subject lands do not form a part of the meadows / Bugyals; the order of the Division Bench, in Writ Petition (PIL) No. 123 of 2014 dated 21.08.2018, has, therefore, no application; and the directions issued therein would not apply to the subject lands in Auli area in Joshimath sub-division of Chamoli district. The submission urged on behalf of the State Government, in effect, is that, while Auli may have Bugyals, the land, on which the marriage event is taking place,

is not a Bugyal, and the nearest Bugyal is located 4 kilometers away.

3. While the venue of the event may not itself be a Bugyal (meadow), it is not known what steps the State Government has taken to ensure that the marriage celebrations do not affect the Bugyal, nor has the Joshimath Nagar Palika Parishad issued any directions to ensure that no damage is caused to the Bugyal, and for the directions issued by a Division Bench of this Court, in Writ Petition (PIL) No. 123 of 2014 dated 21.08.2018, to be complied with. It is also not known whether one has to cross the Bugyals in Auli area in order to reach the venue, or whether, for beautification of the area, the respondents have, in any manner, interfered with the Bugyals thereat. This issue may necessitate examination after the respondents file their respective counter-affidavits.

4. We had, in our order dated 17.06.2019, also directed the 14th respondent to inform the 9th respondent regarding the use of pollution causing equipment, such as heating equipment, generators, gas-stoves and gas-cylinders etc; and had directed the 9th respondent to suggest measures to ensure that the adverse impact of this event, on the ecology of the area, is kept to the barest minimum.

5. While the 14th respondent has, in the information furnished by them to the 9th respondent, stated that they would be using thirty Mushroom Heaters, four Generators of 125 KVA each, and one Generator of 62 KVA, no information has been furnished regarding the number of gas-cylinders and gas-stoves being put to use, and a perfunctory reply has been furnished stating that cooking gas is being used. Today Sri Arvind Vashisth, learned Senior Counsel appearing for the 14th respondent, would submit that between 50 and 60 gas-cylinders are intended to be used for the event, and the number of persons attending the wedding, including members of the family of the grooms and the brides, would be around 150. The number of support staff is considerable and, according to the

information furnished by the 14th respondent, fifteen people have been brought to the event for immediate assistance of the core family, forty people for catering / functions, twenty-two persons for florist / landscaping, and forty-five persons for tents and infrastructure besides twenty drivers and thirty local labourers. Thus, the number of persons staying at the venue, in connection with the event, would exceed three-hundred. With regards the accommodation being provided, it is stated that there are around thirty tents; eighteen rooms have been booked in the Cliff-Top Club; twelve rooms have been booked in the Clifftop Extension recently opened by the GMVN; and eight rooms have been booked in the Nanda Devi Resort.

6. Sri M.C. Pant, learned counsel for the petitioner, would submit that the premises of the Clifftop hotel was sealed more than a year ago by the authorities concerned, and has now been illegally opened only to cater to this mega-event. This averment appears not to be without substance, since Sri Sandeep Kothari, learned Standing Counsel for the Garhwal Mandal Vikas Nigam, on instructions, states that this Hotel was handed-over to them on 10th June, 2019. As permission was accorded for the event on 7th June, 2019, it does appear that the Hotel was handed-over to the GMVN only to accommodate the private respondents i.e. respondents 12 to 14.

7. In so far as the sum required to be deposited by respondent nos. 12 and 13 is concerned, we had, in our order dated 17.06.2019, expressed our *prima facie* opinion that a sum of Rs. 5 crores should be deposited. We had also noted the submission of Sri T.S. Bindra, learned counsel for respondent nos. 12 and 13, that a sum of Rs. 2 crores would be deposited by them, 50% thereof by tomorrow, and the remaining 50% by 21st June, 2019. The measures suggested by the Uttarakhand State Pollution Control Board to minimize the damage to the fragile ecology of Auli, (which shall be referred to in

detail hereinafter) does show that the possibility of environmental degradation, in view of these celebrations, is not irreversible, and may not necessitate an expenditure of Rs. 5 crores being incurred. Suffice it, in such circumstances, to direct respondent nos. 12 and 13 to deposit Rs. 3 crores i.e. Rs. 1.5 crores by tomorrow and Rs. 1.5 crores on or before 21st June, 2019 with the District Magistrate, Chamoli, Government of Uttarakhand. Failure on the part of respondent nos. 12 and 13, to so deposit, will require the District Magistrate, Chamoli to take all necessary steps against them to ensure adherence to the aforesaid directions of this Court.

8. Various conditions have been imposed both by the Managing Director, GMVN, in his proceedings dated 13.06.2019, and by the Executive Officer Nagar Palika Parishad, Joshimath, in his proceedings dated 07.06.2019, which include prohibition of use of all types of plastic and thermocol bags, plates, glass, cups, saucers, etc; prohibition of discharge of effluents in the Ganges, and its tributaries, drains and ponds; bio-degradable and non-bio degradable dustbins are required to be kept separately; burning of waste is prohibited; the use of sound instruments, after 10 PM, has also been prohibited; the respondents have been directed to deposit a sum of Rs. 3,000/- per day for disposal of waste; and special care, of the cleanliness of the tourist place at Auli, has been directed to be taken.

9. The Uttarakhand State Pollution Control Board has also suggested an action plan regarding pollution control at Auli as a result of this event. The possible sources of pollution, during the marriage, have been identified as (1) solid/plastic waste generation; (2) sewage generation; (3) Air/noise pollution due to DG set and fire crackers; and (4) noise pollution due to Band / Orchestra. Measures, to keep each of these factors to the barest minimum, have been suggested, and a copy thereof has been placed for the perusal of this Court.

10. Sri Aditya Pratap Singh, learned Standing Counsel for the Uttarakhand State Pollution Control Board, has handed-over a set of papers, where the suggested measures are detailed, to Sri T.S. Bindra, learned counsel appearing on behalf of respondent nos. 12 and 13, and to Sri Arvind Vashisth, learned Senior Counsel appearing on behalf of the 14th respondent. Both Sri T.S. Bindra, learned counsel appearing on behalf of respondent nos. 12 and 13, and Sri Arvind Vashisth, learned Senior Counsel appearing for respondent no. 14, assure this Court that the aforesaid measures, suggested by the Uttarakhand State Pollution Control Board, shall be adhered to by respondents 12 to 14 both in its letter and spirit.

11. Sri Aditya Pratap Singh, learned Standing Counsel for the Uttarakhand State Pollution Control Board, would submit that a team, of two Monitoring Assistants (Scientists), has been deputed vide proceedings dated 17.06.2019, and they have already reached the subject site. The Monitoring Assistants shall ensure that respondent nos. 12 to 14 strictly adhere to the measures suggested by the Uttarakhand State Pollution Control Board, the directives of the Joshimath Nagar Palika Parishad and the GMVN, and those passed by this Court both on 17th and 18th June, 2019. They shall also verify whether the infrastructure provided at the venue by the 14th respondent is in conformity with the details furnished by them to this Court, as noted earlier in the order. The Monitoring Assistants shall also ensure that no fire crackers are used; and the Orchestra / Band, brought for the event, shall not be permitted to play music beyond the permitted decibel levels, prescribed for areas like Auli, and in any event not beyond 10 PM.

12. While the note submitted by Sri Arvind Vashisth, learned Senior Counsel appearing on behalf of the 14th respondent, discloses that the event Managers (the 14th respondent) have also been entrusted the task of landscaping, they are hereby directed not to change the nature of the land at Auli, in any manner, henceforth. If, as is now contended before us by Sri B.P. Nautiyal, learned Senior

Counsel, any JCBs have been brought to the location, they shall not be permitted to be used hereinafter.

13. The District Magistrate, Chamoli shall ensure that the measures suggested by the Uttarakhand State Pollution Control Board, the directives issued by the Joshimamth Nagar Palika Parishad, and those issued by this Court both on 17th and 18th June, 2019, are adhered to by respondents 12 to 14; and, in case they do not, it is open to him to take stringent action for such violations, including, if need be, stopping the event itself. Failure on the part of the District Magistrate, Chamoli to take action against respondents 12 to 14, for any such violations, may necessitate proceedings being initiated against him for non-compliance of the order of this Court.

14. After conclusion of the event on 23.06.2019, the Member Secretary, Uttarakhand State Pollution Control Board shall have an assessment made of the damage caused to the area as a result of these celebrations; and suggest ameliorative measures required to be taken to restore the area, to the extent possible, to its earlier position. The expenditure incurred in deputing officials of the Board to the venue, the expenditure for their stay, as also the expenditure to be incurred to bring back the subject area to the position it was in, before permission was accorded by the Nagar Palika for this event, shall be incurred from the amount deposited by respondent nos. 12 and 13. A detailed report of the expenses incurred shall also be filed before this Court, by the District Magistrate, Chamoli; and the balance amount shall only be refunded with the prior permission of this Court. The reports of the Member Secretary, Uttarakhand State Pollution Control Board and the District Magistrate, Chamoli shall be placed before this Court by 8th July, 2019.

15. Sri Paresh Tripathi, learned Chief Standing Counsel, Sri Aditya Pratap Singh, learned Standing Counsel, Sri T.S. Bindra, learned counsel, and Sri Arvind Vashisth, learned Senior Counsel

are present in Court, and undertake to inform forthwith the District Magistrate, Chamoli, the Member Secretary, Uttarakhand State Pollution Control Board, respondents 12 and 13, and respondent no. 14, respectively of their obligations under this order.

16. List this matter on 8th July, 2019.

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

(Alok Kumar Verma, J.)

(Ramesh Ranganathan, C.J.)

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