

(2015) 05 UK CK 0013

In the Uttarakhand High Court

Case No : Writ Petition (PIL) No. 31 of 2012

Ajay Singh Rawat

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 07-05-2015

Acts Referred:

Citation : (2015) 05 UK CK 0013

Hon'ble Judges : Alok Singh, J;S.K. Gupta, J

Bench : Division Bench

Advocate : Rajeev Singh Bisht, for the Appellant; Rakesh Thapliyal, Assistant Solicitor General of India, Advocates for the Respondent

Judgement

1. Mr. Deepak Rawat, District Magistrate is present in person before the Court today. It is stated by Mr. Rawat that the fund has been approved by the State Government for beautification and preservation of Sukha Tal; he will come up with the concrete proposal within next four weeks positively.

2. Mr. Rawat further contends that for widening of road from Mohan Co. up till B.D. Pandey Hospital, estimate and proposal has already been forwarded by the district administration. Mr. V.B.S. Negi, learned Additional Advocate General, appearing for the State, gives an assurance that he will speak to the Secretary for getting the estimate and the work sanctioned and he will make statement in this regard on the next date of hearing. Mr. Rawat contends that soon after proposal and estimates are approved, work of road widening shall be commenced.

3. Mr. Rawat, learned District Magistrate further contends that he will personally visit, along with the Officers of Public Works Department and Municipality, the road leading from DAAT to Hanuman Garhi to find out as to how the same can be widened. Mr. V.B.S. Negi, learned Additional Advocate General submits that he will make statement in this regard on the next date of hearing after consulting the District Magistrate.

4. Mr. Rawat, learned District Magistrate fairly contends that proposal of construction of metalled/cemented road instead of Kachha road leading to Arbindo Ashram shall be prepared and placed before this Court on the next date of hearing.

5. Mr. Rawat, learned District Magistrate further contends that for sterilization of dogs, temporary spot has been selected near P.I.N.E.S. and an agency has also been appointed for the same. He further contends that appropriate steps in this regard shall be taken without any undue delay.

6. Mr. D.S. Patni, learned counsel appearing for the Municipality shall make statement on the next date of hearing as to how the stray dogs from the Mall Road and Thandi Sadak around the Naini Lake can be removed and shifted to shelter home in order to avoid accident of dog-biting in view of the fact that a lot of tourists have started visiting Nainital city.

7. Mr. Rawat, learned District Magistrate contends that few leases of Nazul land have expired and he is studying as to which Nazul property can be utilized for public utility purposes and if a property is required to be utilized for the public utility, the lease thereof shall not be extended/renewed and appropriate steps shall be taken to get it vacated so that the same may be used for public utility purpose.

8. Mr. Rawat further contends that although, it is the duty of the Lake Development Authority to check the illegal/un-authorized constructions within its territory, however, in view of the facts transpired today during the course of hearing, he will personally supervise and ensure that no illegal or unauthorized construction is carried on.

9. Mr. Rawat, learned District Magistrate further contends that he has received the recovery certificates for recovery of fine imposed for illegal use of polythene as arrears of land revenue yesterday only and recovery proceedings shall commence within 24 hours and the name of defaulter who obstructs the recovery proceeding shall be placed before this Court on the next date of hearing so that he may be dealt with for deliberate non-compliance/violation of Court's orders.

10. Mr. Rakam Pal Singh, Executive Engineer, Jal Nigam is present in person before this Court along with Mr. D.S. Patni, Advocate for the Jal Nigam. It is stated by Mr. Rakam Pal Singh that he has submitted proposal of Rs. 90.00 crores to the headquarters for modernization of Sewerage Treatment Plant so that after such treatment, water can be utilized. He further contends that there was damage to the Sewerage Treatment Plant near Russi Gaon, wherefore appropriate steps have already been taken to obstruct the flow of sewerage towards the residential colonies/village. He has given assurance that the copy of proposal submitted by him shall be placed on the record on the next date of hearing. Mr. D.S. Patni, learned counsel for the Jal Nigam submits that he will personally speak to the Headquarters to get the proposal sanctioned as submitted by Mr. Rakam Pal Singh, Executive Engineer.

11. Mr. V.B.S. Negi, learned Additional Advocate General submits that he will speak to the concerned Secretary and would ask to convene a meeting with higher up of Jal Nigam and to get the plan sanctioned as well as to release the money at the earliest, in any case, within four weeks from today.

12. Mr. D.S. Patni further contends that as on date, the Central Government, more particularly Ministry of Forests and Environment, has not granted permission, rather has rejected the permission to dump and treat the municipal waste over the municipal land whereupon the city forest is standing. Mr. Patni further contends that geographical situation of Nainital city is such that Municipality does not have large chunk of open land to dump and treat the municipal waste, therefore, Municipality has no other option except to make request to the Forest Department to permit the Municipality to dump and treat the municipal waste over the property which is now the part of city forest.

13. Mr. Rakesh Thapliyal, learned Assistant Solicitor General of India, who is present in the Court, submits that he will request the Secretary, Ministry of Environment and Forests, Government of India to convene a meeting inviting Divisional Commissioner, Kumaon, District Magistrate, Nainital and Chairman/ Executive Officer of Municipality, Nainital, in order to find out a solution as to how the municipal waste can be dumped, stored and treated at any other nearby suitable place. Mr. Thapliyal submits that he will make statement in this regard on the next date of hearing.

14. Mr. Sandeep Kothari, learned counsel appearing for the Lake Development Authority and Mr. D.S. Patni, learned counsel appearing for the Municipality, have submitted that none shall be permitted to use any part of the road to dump or store the building construction material and whosoever is found illegally dumping or storing the construction material on the road, he shall be dealt with in accordance with law.

15. Mr. Kothari further contends that there is a landslide on the Thandi Sadak and debris on the Thandi Sadak shall be removed forthwith and the Lake Development Authority shall come up for the construction of retaining wall to avoid any accident.

16. Mr. V.B.S. Negi, learned Additional Advocate General submitted that on earlier occasions too, this Court had issued directions for removal of boulders from the roadside properties leading towards Raj Bhawan from Mosque Tri-Section. He submits that he will speak to the Divisional Commissioner and Officers of the Lake Development Authority as well as of the Public Works Department to remove boulders from that roadside area and to raise retaining wall to avoid any accident. He further contends that if big boulders are found on the private property of individuals, then the individuals shall be requested to pay expenses for removal of boulders therefrom to avoid any accident.

17. Mr. V.B.S. Negi, learned Additional Advocate General, Mr. D.S. Patni, learned counsel for the Municipality and Mr. Sandeep Kothari, learned counsel for the

Lake Development Authority, submitted that the same steps shall also be taken for removal of debris and boulders from the roadside and roadside properties on the road leading towards Hanuman Garhi to avoid any accident.

18. Mr. V.B.S. Negi, learned Additional Advocate General and Mr. Sandeep Kothari, learned counsel for the Lake Development Authority, have submitted that now the Government has issued the order dated 1.5.2015 allowing amendment in the Building Bye-Laws/Regulations, as proposed by the Chairman, Lake Development Authority. Copy of the order has been handed over in the Court today which is taken on record. They further contended that the amendment shall be carried out within two weeks positively and till the amendment is carried out in Building Bye-Laws/Regulations, no new pending map shall be sanctioned/modified nor the validity period thereof shall be extended.

19. Mr. V.B.S. Negi, learned Additional Advocate General and Mr. Sandeep Kothari, learned counsel for the Lake Development Authority, shall make statement on the next date of hearing about the Multi-Storey Parking on the iron slabs/pillars at D.S.A. and on the point as to how diesel and petrol can be made available in Talli Tal area to the thousands of vehicle coming daily from Talli Tal area.

20. List this matter on 15th May, 2015.