

(2024) 09 UK CK 0142

In the Uttarakhand High Court

Case No : Writ Petition Miscellaneous Single No. 2452 Of 2024

Ayyub Hassan

APPELLANT

Vs

State Of Uttarakhand

RESPONDENT

Date of Decision : 23-09-2024

Acts Referred:

Guardians and Wards Act, 1890 — Section 7
National Trust For Welfare Of Persons With Autism, Cerebral Palsy, Mental Retardation
And Multiple Disabilities Act, 1999 — Section 14

Citation : (2024) 09 UK CK 0142

Hon'ble Judges : Pankaj Purohit, J

Bench : Single Bench

Advocate : Rishab Ranghar, Yogesh Ch. Tiwari, Devendra Pant

Final Decision : Disposed Of

Judgement

Pankaj Purohit, J

1. Heard.
2. Petitioner wants to be legally declared the guardian of his brother (Mr. Amjad) and sister (Ms. Raheesa) who are children of their parents (late Mohd. Idris and late Akhtari Begum).
3. The reason for seeking guardianship is that Mr. Amjad and Ms. Raheesa are the real brother and sister of petitioner who are suffering from 'severe intellectual disability' and certificate to that effect has been annexed as Annexure No.4 to the petition whereby it is depicted that both Mr. Amjad and Ms. Raheesa are disabled to the extent of 90%.
4. Petitioner, for seeking guardianship, even filed a case under Section 7 of the Guardians and Wards Act, 1890 before the Family Court, Vikas Nagar (Dehradun). The said case was registered as Case No.25 of 2023 (Ayub Hasan v. General Public). By reason of judgment dated 19.10.2023 (Annexure no.6), the said case was dismissed. It is observed in the said judgment dated 19.10.2023

that the matter of guardianship of such persons of mental disability or intellectual disorder is covered under 'National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999' (hereinafter referred to as the Act of 1999). Accordingly, it was observed that instead of approaching the Family Court, petitioner should have moved the competent authority i.e. District Collector as prescribed u/s 14 of the Act of 1999.

5. The petitioner moved an application to the District Magistrate, Vikas Nagar but there is no such post available in Vikas Nagar, rather the correct office to which the application should have been moved was District Magistrate, Dehradun. Accordingly, the petitioner has purportedly submitted application before the wrong forum.

6. Keeping in mind the facts of the case, this Court permits the petitioner to move a fresh application before the competent authority i.e. District Collector, Dehradun u/s 14 of the aforesaid Act of 1999 within a period one week from today. If any such application is moved within the stipulated time i.e. latest by 30.09.2024, the said application would be decided by the competent authority under the aforesaid Act within three months from the date of its receipt as per the procedure given under the Act of 1999 (Supra).

7. Petition as well as all pending applications stand disposed of accordingly.