
(2020) 06 UK CK 0026

In the Uttarakhand High Court

Case No : Writ Petition (PIL) No. 100 Of 2020

Mamtesh Sharma

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 17-06-2020

Acts Referred:

Uttar Pradesh Reorganisation Act, 2000 — Section 26(2), 26(3)
Constitution Of India, 1950 — Article 226

Citation : (2020) 06 UK CK 0026

Hon'ble Judges : Ramesh Ranganathan, CJ; R.C. Khulbe, J

Bench : Division Bench

Advocate : Ajay Veer Pundir, Sanjay Bhatt, K.N. Joshi

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, CJ

1. The jurisdiction of this Court has been invoked by a practicing Advocate of Roorkee in Haridwar district seeking a mandamus from this Court to

establish a Circuit Bench, of the Uttarakhand High Court, in Garhwal Division preferably in Districts Dehradun or Hardwar in view of Section 26(3)

of the U.P. Re-organisation Act, 2000 (for short the "2000 Act").

2. The State of Uttarakhand is divided into two Divisions-Garhwal and Kumaun. With a view to cater to the aspirations of people from both these

Divisions, the Capital of the State of Uttarakhand was located at Dehradun in Garhwal Division, and the High Court was established in Nainital in

Kumaun Division, though the number of cases in the Courts in the plains is far more than in the hills, and the number of cases pending in the High

Court is also largely from the plains. While Haridwar district in Garhwal Division and Udham Singh Nagar district in Kumaun Division are entirely in

the plains, Dehradun district in Garhwal Division and Nainital district in Kumaun Division are partly in the plains and partly in the hills. All the other

nine districts, five in Garhwal Division and four in Kumaun Division, are entirely in the hills. These historical factors appear to have weighed in

establishing the principal seat of the Uttarakhand High Court at Nainital when the State of Uttarakhand came into existence nineteen years ago on

09.11.2000.

3. The demand for a Circuit Bench to be established, either at Dehradun or Haridwar, has often been espoused in the past ever since the State was

created on 09.11.2000. Such demands were vehemently opposed by lawyers from the other Division apprehending that any concession on this front,

may result in the High Court itself being shifted later to these places. These issues have been considered, from time to time, by the High Court on the

administrative side and, for various reasons, the demand, for establishing a Circuit Bench of the High Court elsewhere, was not acceded to.

4. While there is much to be said in favour of both the opposite points of view, the question which falls for consideration, in the present writ petition, is

whether a mandamus can be issued directing the High Court to establish a Circuit Bench either at Dehradun or Haridwar.

5. It is true that the jurisdiction of the High Court, under Article 226 of the Constitution of India, can be invoked not only for violation of fundamental

rights, but also for violation of any legal right of the person who invokes its jurisdiction. The petitioner has no fundamental right to have a Circuit Bench

of the Uttarakhand High Court established either at Dehradun or Haridwar.

6. Sri Ajay Veer Pundir, learned counsel for the petitioner, would however rely on Section 26(3) of the 2000 Act to contend that, as the maximum

pendency of cases in the High Court is from Dehradun district, the High Court is obligated to establish a Circuit Bench there.

7. Part-IV of the 2000 Act relates to the High Court and, under Section 26(1) thereof, there shall be a separate High Court for the State of

Uttaranchal (now called the State of Uttarakhand) from the appointed day (09.11.2000). Section 26(2) of the 2000 Act stipulates that the principal

seat of the High Court of Uttarakhand shall be at such place as the President may, by notified order, appoint. In terms of Section 26(2), Nainital was

notified as the principal seat of the Uttarakhand High Court.

8. Section 26(3) of the 2000 Act stipulates that, notwithstanding anything contained in Sub-Section (2), the Judges and Division Courts of the High

Court of Uttarakhand may sit at such other place or places in the State of Uttarakhand, other than its principal seat, as the Chief Justice may, with the approval of the Governor of Uttarakhand, appoint.

9. Section 26(3) of the 2000 Act is an enabling provision, in terms of which the Judges and Division Courts of the High Court of Uttarakhand may sit

at places, in the State of Uttarakhand, other than its principal seat at Nainital. By use of the word "may" at two places, this provision confers a

discretion on the Chief Justice, with the approval of the Governor of Uttarakhand, to appoint a place, other than the principal seat at Nainital, where

the High Court can sit.

10. As these are all matters which fall within the discretionary jurisdiction of the Chief Justice, no mandamus can be issued directing the Chief Justice

of the High Court to have a seat of the High Court at Dehradun, Haridwar or elsewhere. In the absence of any legal right of his having been violated

thereby, it is not open to the petitioner to invoke the extra-ordinary jurisdiction of this Court seeking such a relief. Suffice it, while expressing our

disinclination to entertain this writ petition, to make it clear that the order now passed by us shall not disable the petitioner from making a

representation to the Chief Justice of the High Court, and for the High Court to consider the same as it deems fit and proper.

11. The Writ Petition, however, fails and is, accordingly, dismissed. No costs.