

(2010) 02 UK CK 0026
In the Uttarakhand High Court

Prof. Ajay Singh Rawat

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 11-02-2010

Acts Referred:

Citation : (2010) 02 UK CK 0026

Hon'ble Judges : J.S. Khehar, C.J.;Sudhanshu Dhulia, J

Bench : Division Bench

Judgement

J.S. Khehar, C.J. and Sudhanshu Dhulia, J.—The grievance raised in the instant petition pertains to unauthorised and illegal mining in the river bed of river "Gaula". The allegations contained in the present writ petition were made as against persons who had been granted mining contracts by the State Government. All the aforesaid mining contracts have since expired. This is apparent from the factual position depicted in the affidavit of Sri S. Raju, Commissioner, Kumaon Division, Nainital dated 10.09.2008. Paragraph 8 of the aforesaid affidavit is being extracted hereunder:

That in reply to the contents of para 11 of the P.I.L. Writ Petition it is submitted that a joint survey is conducted by the officers of the Revenue Department, Mining Department and Forest Department. The joint survey report is forwarded to the State Government and after the approval granted by the State Government the mining is done by the person in whose favour the said permission is granted. It is submitted that as per the order dated 30.8.2006 the permission for mining activities were granted in favour of (i) Digar Singh S/o Sri Amar Singh, (ii) Rajendra Singh, (iii) Kedar Singh both Sons of Sri Bhim Singh, (iv) Kunwar Singh, (S/o) Sri Amar Singh, (v) Dhan Singh S/o Sri Ram Singh & (vi) Dalveer Singh Sisodia R/o Rausil for a period of three years. In the same manner vide order dated 25.4.2006 the permission was granted in favour of Sri Kedar Datt Pandey, R/o Amartpur, District Nainital and vide order dated 17.5.2004 permission was granted in favour of (i) Sri Girish Chandra Chaudhary, (ii) Sri Prashant Chaudhary and (iii) Sri Shankar Datt, R/o Village Bhaursa, Tehsil

Nainital for three years.

2. Thus viewed it is apparent that even if there was unauthorised mining, based on the interim order passed by this Court, and there upon, on the expiry of lease period the aforesaid unauthorised activity has since come to an end. In the aforesaid view of the matter, it is apparent that the instant writ petition has been rendered infructuous.

3. In view of the above, while disposing of the instant writ petition as having been rendered infructuous, we are persuaded to record our observations on the basis of the photographs collectively appended to this petition as Annexure- 5 and Annexure-10. The photographs depict abuse of the lease granted by the State Government to parties authorised to mine of minor minerals. In the circumstances, therefore, we consider it just and appropriate, to caution the State Government to be vigilant at the time of grant of lease for minor minerals in future, and to verify the antecedents of the person(s) granted such lease, and also to keep vigil over activities of the person(s) granted such lease. Such a lease should ordinarily be an exception inasmuch as lease for minor minerals in a situation as the one governed by the controversy brought before this Court through the instant Public Interest Litigation reveals that the same has a far reaching effect on environment. In spite of the disposal of the present petition, we wish to express the Court's gratitude to the petitioner who has brought the instant cause to light. In case any such activity comes to the notice of the petitioner hereinafter, it will be open to the petitioner to espouse the same cause before this Court.

4. The instant writ petition is accordingly disposed of in the aforesaid terms. A copy of this order be supplied by the Registry to respondent Nos. 2 to 5 for consideration.