
(2018) 06 UK CK 0117
In the Uttarakhand High Court
Case No : Writ Petition (PIL) No.97 of 2016

Satish Chandra Ghildiyal	Vs	APPELLANT
State of Uttarakhand & others		RESPONDENT

Date of Decision : 15-06-2018

Acts Referred:

Environment Protection Act and Rule 5(3)a) of Environment (Protection) Rule, 1986 —
Section 5(2)(V)

Citation : (2018) 06 UK CK 0117

Hon'ble Judges : RAJIV SHARMA , J;LOK PAL SINGH, J

Bench : Division Bench

Advocate : M.C. Pant, S.S. Chauhan, Dy, Rahul Consul

Final Decision : Disposed Off

Judgement

“

Lok Pal Singh, J.",,

Rajiv Sharma, J. (Oral)",,

Petitioner has challenged the G.O. dated 19.11.2008 along with G.O. dated 28.11.2013 whereby the Master Plan was approved and subsequently,,

notified for Mussoorie & Dehradun in violation of Notifications dated 6.10.1988 and 1.12.2009.,,

2. The Department of Environment, Forest and Wildlife, Govt. of India has issued the official notification on 6th October, 1988. The text of the",,

notification reads as under: -,,

â??DEPARTMENT OF ENVIRONMENT,,

FORESTS AND WILDLIFE,,

New Delhi, the 6th October, 1988",,

NOTIFICATION UNDER SECTION 5 (2) (V) of Environment (Protection) Act, 1986 and Rule 5 (3) (a) of Environment (Protection) Rule, 1986,",,

restricting location of industries, mining operations and other developmental activities in the Doon Valley in Uttar Pradesh.",,

S.O. 923 (E) whereas considerably environmental degradation has taken place in the Doon Valley in Uttar Pradesh on account of industrialization,",,

mining operation, deforestation, unrestricted tourism activities, excessive grazing etc.",,

Whereas to lay down guidelines for environmental man management and to ensure that economic development of the Doon Valley is achieved with,,

minimum ecological disturbances, the Central Government had constituted Doon Valley Board in August 1981, and whereas the board in its meeting",,,

had recommended that Doon Valley should be declared as ecologically fragile area and consideration of issue Notification under section 3 (2) (v) of,,

Environment (Protection) Act, 1986, for prohibiting restricting certain activities which have detrimental effect on the environment.",,

Now, therefore, considering the fragile eco-systems of the Doon Valley and to ensure that development activities are consistent with principles of",,,

environmental conservation, it appears to the Central Government that it is expedient to impose restriction under clause (v), sub-section (2) of Section",,,

3 of Environment (Protection) Act, 1986 on the following activities in the De3en Valley, bounded on the north by Mussoorie ridge line, in the North-"",,,

East by lesser Himalayan ranges, on the South- West by Shivalik Ranges, river Ganga in the Sought-East and river Yamuna in the North-West:"",,,

(i)Â Â Location: Setting up of industrial units- It has to be as per guidelines given in the annexure of guidelines as may be issued from time to time by,,

the Ministry of Environment & Forests, Government of India.",,

(ii)Â Miningâ?"Approval of the Union Ministry of Environment and Forests must be bounded before starting any mining activities.,,,

(iii) Tourism â?" It should be as per Tourism Development Plan (TDP_ to be prepared by the State department of tourism and duly approved by the,,

Union Ministry of Environment and Forests.,,,

(iv) Land use-as per Master Plan of development and Land use Plan of the Entire area, to be prepared by the State Government and approved by the",,,

Union Ministry of Environment & Forests.,,,

It is notified under clause (b), sub-rule (3) of rule 5 of Environment (Protection) Rules, 1986, that any person interested in filing an objection against",,,

the imposition of such restriction may do son in writing to the Secretary, Department of Environment, Forests and Wildlife, New Delhi, within sixty",,,

days from the date of publication of the notification in the official Gazette.â??,,

3. Thus, considering the fragile eco-system of Doon Valley and to ensure that development activities are consistent with the principles of",,,

environmental conservation, the Master Plan/Land Use Plan of the entire area was to be prepared by the State Government and it was to be approved",,,

by the Union Ministry of Environment & Forests. This was required to save the Doon Valley which had recently noticed environmental degradation on",,,

account of industrialization, mining operation, deforestation, unrestricted tourism activities, excessive grazing etc.",,

4. The State Government has prepared the Development Plan under the U.P. Urban Planning & Development Act of 1973. The Master Plan was,,

sent for approval of the Central Government on 16.6.2005 vide Annexure No.CA3. Since no action was taken by the Department of Environment &,,

Forest, the State Government, in its own wisdom, has approved the Master Plan vide Government Order dated 19.11.2008. The Master Plan, notified",,,

on 19.11.2008, has been subsequently amended/modified on 28.11.2013.",,

5. It is intriguing to note that the State Government, instead of vigorously pursuing the matter to get the approval/sanction from the Central",,,

Government as per Notification dated 6.10.1988, has notified the Master Plan on 19.11.2008 and further amended it on 28.11.2013.",,

6. It is in gross violation of notification dated 6.10.1988. The State Government has not shown due sensitivity to the environmental degradation in Doon,,

Valley. There is degradation of environment and ecology. All of us are affected adversely. The climate change has already taken place. It is not,,

understandable why the State Government has notified the Master Plan which is the magna carta for the urbanization on scientific lines by adopting,,

the zoning principles without seeking approval from the Central Government. The entire exercise undertaken by the respondent-State of not getting,,

sanction/approval from the Central Government, as per Notification dated 6.10.1988, is illegal. The State Government has violated the provisions of",,,

Section 5(2)(V) of the Environment Protection Act and Rule 5(3)a) of

Environment (Protection) Rule, 1986 under which the restriction was imposed",,,
for location of industries, mining operations and other development activities in
Doon Valley.",,,

7. The respondents have also willfully flouted the Notification dated 1st
December, 2009 while notifying the Master Plan in a very whimsical manner.",,,

The action of the respondents in notifying the Master Plan is an arbitrary exercise
of power. The respondents instead of saving the environment and,,

ecology have gone against the spirit of notifications dated 6.10.1988 and
1.12.2009. The text of the Notification dated 1st December, 2009 reads as",,,

under: -,,

MINISTRY OF ENVIRONMENT AND FORESTS NOTIFICATION New Delhi.,,,

The 1st December. 2009,,

S.O. 3067(E)'- Whereas, in exercise of the powers conferred by sub-section (1),
and clause (v) of sub-section (2) of section 3 of the Environment",,,

(Protection) Act, 1986 (29 of 1986), a draft notification for making certain
amendments in the Environment Impact Assessment Notification, 2006",,,

issued vide no.S.O.1533(E), dated the 14th September, 2006, was published
under sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1996",,,

vide number S.O. , vide number S.O. 195(E), dated the 19th January, 2009,
inviting objections and suggestions from all the persons likely to be",,,

Serial Number,Item,Details

Â Â Â Â Â Â 1.,Name of Â the project/s,

Â Â Â Â Â Â 2.,S.No. in the schedule,

13. At present the Valley is in danger because of erratic, irrational and
uncontrolled quarrying of limestone. The landscape has been stripped bare of",,,

its verdant cover. Green cover today is about 10 per cent of the area while from
decades ago it was almost 70 per cent.,,,

18. Governments-both at the center and in the State-must realize and remain
cognizant of the fact that the stake involved in the matter is large and,,

far-reaching. The evil consequences would last long. Once that unwanted
situation sets in, amends or repairs would not be possible. The greenery of",,,

India, as some doubt, may perish and the That desert may expand its
limits.â??",,,

12. Accordingly, the petition is allowed. and the following mandatory directions

are issued:-",,,

A. Government order dated 19th November, 2008 notifying the master plan as well as the Government Order dated 28.11.2013 modifying the Master",,,

Plan, are quashed and set aside.",,,

B. The State Government is directed to take up the matter with the Central Government for the approval of Master Plan as per Notification dated,,

6.10.1988 read in conjunction with notification dated 1.12.2009 issued by the Ministry of Environment & Forest, Govt. of India within eight weeks. The",,,

Central Government shall consider the same in accordance with law.,,,

C. It is also made clear that while preparing the new Master Plan, the land under the â??Tea Gardenâ? at Dehradun shall not be converted to any",,,

other use and its status shall be maintained.,,,

D. Cost of Rs.5.00 lakh is imposed upon the respondents for not complying with the mandatory Notifications dated 6.10.1988 and 1.12.2009 while,,

issuing the G.O. dated 19.11.2008 and 28.11.2013.,,,

All pending applications stands disposed of.,,,