

(2018) 09 UK CK 0116
In the Uttarakhand High Court
Case No : Writ Petition (PIL) No. 157 Of 2018

Sayed Nadim Khurshid

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 26-09-2018

Acts Referred:

Citation : (2018) 09 UK CK 0116

Hon'ble Judges : Rajiv Sharma, J; Manoj Kumar Tiwari, J

Bench : Division Bench

Advocate : Sayed Nadim, Paresh Tripathi

Judgement

Rajiv Sharma, J

1. On the oral application of Mr. Sayed Nadim, petitioner present in person, Wadia Institute of Himalayan Geology, Dehradun through its Director; Forest Research Institute, Dehradun, through its Registrar; and Indian Institute of Technology, Roorkee, through its Director are added as respondents nos. 7, 8 & 9.
2. A question of grave public importance has been raised in present Public Interest Litigation.
3. The petitioner is a practicing Advocate in this Court. The petitioner has sought directions to the respondents to take urgent steps for preservation and conservation of the Hill Area adjacent to Baliyanala leading to the Jeolikote.
4. According to the averments made in the writ petition, Baliyanala is a most sensitive area of Nainital city. The strata is fragile. A massive landslide took place about 120 years ago, in which 27 workers died. The then administration in its own wisdom constructed a canal from Naini Lake to the foothill of Hari Nagar. This canal was constructed to impede the flow of water. A massive landslide had also taken place in Nainital City in the year 1880. In the year 1973, the Administration of Nainital had also shown a deep concern to protect the fragile Baliyanala Area.

5. The State Government is releasing sufficient funds for its treatment but till date no permanent solution has been evolved. The landslides, which are taking place frequently, may also cause damage to the world famous Naini Lake. The Himalayas are the youngest mountain range. The Himalayas are still rising. The strata of Nainital town is also fragile. It is prone to landslides, erosions, creeping and sinking. The area adjacent to Baliyanala has human establishments. The residents of this area are shifted temporarily whenever there is large scale landslide.

6. We are of the considered view that permanent solution is required to be evolved to protect Baliyanala from further erosion.

7. The petitioner has placed before us the study captioned "Forest Works Manual and Schedule of Rates for Forestry Related Works in Uttarakhand" published by the Ministry of Rural Development, Government of India under the Mahatma Gandhi National Rural Employment Guarantee Act. Para No. 5.6 is relevant in the present scenario. According to the recommendations four strand barbed wire fencing should be erected around the affected area to prevent cattle, sheep, goats and other animals grazing in the area. Stone retaining walls along contour should be constructed to withhold and help in stabilizing the land slip. The slip area should be planted and well covered with quick establishing species of trees and shrubs e.g. Agave, Alnus Nepalensis, Ipomoea, Populus Ciliata, Salix, Vitex, Woodlandia etc. It is also suggested that wherever possible landslipped slopes should be provided with cover of wire netting, rope netting or sack (coarse jute fabric) etc. including wattling and mulching. Several types of netting can be used woven with wire, jute yarns or cannabis ropes etc. to use these nettings slopes should be smoothened, seeded and fertilized and layer of mulch is spread and the netting unrolled over the mulch and anchored by wire staples. Diversion channel should also be constructed to check rain water coming to fragile site and divert it to safe natural course nearby.

8. The State Government by now should have taken steps as discussed hereinabove to prevent further damage to the fragile site at Baliyanala.

9. It is submitted at the Bar that experts have come from Japan and have inspected the spot. According to the Japanese experts, it will take them another 15 to 20 years to treat the Baliyanala site.

10. We are of the view that respondent nos. 7 to 9 have necessary technical knowhow to treat this fragile site at Baliyanala.

11. Accordingly, a High Power Committee, comprising of the following members, is constituted to treat the fragile site at Baliyanala from further damage:-

1. The Director, Wadia Institute of Himalayan Geology, Dehradun.
2. The Director/Additional Director, Forest Research Institute, Dehradun.
3. Senior-most Professor (Civil Engineering) of Indian Institute of Technology,

Roorkee.

4. The Chief Engineer, Irrigation Department, State of Uttarakhand.

5. The Chief Engineer, Public Works Department, State of Uttarakhand.

12. The Registrar, Forest Research Institute shall be the Secretary of the Committee. The Committee shall meet on or before 12.10.2018 to find out permanent solution to prevent further damage. The Committee shall make its recommendation on an urgent basis within a period of one month from today. It shall be open to the High Power Committee to take assistance of any expert throughout the world.

13. The Nodal Officer/Secretary shall maintain the records of expenditure, which shall ultimately be paid by the State Government. It shall be open to the State Government to seek financial assistance from the Central Government.

14. List this matter on 27.10.2018.