
(2011) 12 UK CK 0031

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 2152 of 2010

Shravan Kumar and others

APPELLANT

Vs

Chief Conservator of Forests

RESPONDENT

Date of Decision : 21-12-2011

Acts Referred:

Citation : (2011) 12 UK CK 0031

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Judgement

Sudhanshu Dhulia, J.—Heard Mr. Rajeev Sharma, Advocate for the petitioners and Mr. K.C. Tiwari, Brief Holder present for the State of Uttarakhand.

2. The petitioners are shepherds, known as "Gaderiya" in the State of Uttarakhand. They earn their livelihood by keeping the sheep and cattles. They have been denied grazing their cattle in the forest land. In a similar matter being Writ Petition No. 973 (M/B) of 2003, a Division Bench of this Court has passed the following orders:-

In such cases, the State has to strike balance between the livelihood of small petty grazers on the one hand and the protections of the forest area on the other hand. In this case, the petitioners have been earning their livelihood for last fifty years from the above activity. To deny them permission totally would put an end to their livelihood. Till today, there is nothing to indicate that in other Forests in the State of Uttaranchal, the Forest Department has not permitted grazers. There is no general policy taken by the State Government after 9th November, 2000 to ban grazing in all Forests within the State of Uttaranchal. Till such policy is taken, if so advised, the activity of private grazers can be regulated. They can be given temporary permissions subject to certain area being demarcated, within which they can be permitted to graze their cattle with conditions like no lopping would be allowed, prohibition of cutting of trees and prohibition on crossing of areas demarcated for grazing. Forest Department can impose any other condition as they deem fit.

In the light of this judgment, we are directing the Divisional Forest Officer, Tarai West Forest Division, Ramnagar to permit the petitioners to graze their cattle in the demarcated area on such terms and conditions as he deems fit, till the State takes appropriate policy decision. The Divisional Forest Officer is directed to grant permission in terms of this order within a period of three weeks from the date of communication of this order.

3. The only reply which has come forward by the State of Uttarakhand is that since the petitioners do not belong to the State of Uttarakhand, this right cannot be given to them.

4. All the same, the petitioners contend that during the extreme winter the entire community (of shepherds) descend from high mountains along with their sheep and cattles and settles on the lower Himalayan Region, which presently is a part of the State of Uttarakhand. They need to graze their sheeps and goats.

5. Therefore, as an interim measure, Divisional Forest Officer, Tarai, West Forest Division, Ram Nagar, Nainital and Divisional Forest Officer, Nainital District Nainital (Respondent nos. 3 and 4 respectively) are hereby directed to permit the petitioners to graze their cattle.

6. List this matter on 9.1.2012 in the daily cause list for final disposal.