

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Smt. Justice Ritu Bahri, CJ.
And
Sri Justice Rakesh Thapliyal, J.

Special Appeal No. 1 of 2024

State of Uttarakhand.Appellant.

Versus

Gulshan Bhanot
and others.Respondents.

Upon hearing the learned counsel, the court made following Order: (Per Mr. Rakesh Thapliyal, J.)

1. Mr. S.N. Babulkar, learned Advocate General with Mr. C.S. Rawat and Mr. Rajeev Singh Bisht, learned Additional Chief Standing Counsel for the State of Uttarakhand / appellant and Mr. Kartikey Hari Gupta & Ms. Irum Zeba, learned counsel for the private respondents / writ petitioners.

2. This case was listed for 21st May, 2024 but it is being taken-up today, especially keeping in view that the Supreme Court has started examining the effect of forest fire in the entire State of Uttarakhand. The main reason for the Supreme Court to take up the issue is to protect the entire forest area because it is a big loss to the entire environment.

3. Keeping in view the above steps taken by the Supreme Court, we are informing the Chief Secretary that 26 hectares of land has been offered to the High Court at Golapar in Haldwani for making the new High Court. Out of this 26 hectares of land, 75% of land is full of trees. So the Court does not want to uproot any of the tree to make a new High Court. Keeping in view the above fact, we are not using that land.

4. When the Uttarakhand was created, the sanctioned strength of High Court was only three Judges. Within 20 years, the strength has gone to 11. For in the next 50 years, the strength is likely to go at least eight times. So within next 50 years, we need land for 80 Judges, So, we are giving direction to the Chief Secretary to apply her mind to the above directions.

5. This State was carved out from the State of Uttar Pradesh on 09.11.2000 and its capital was established at Dehradun temporarily and High Court was established in Nainital.

6. Nainital city is a well known tourist place and the people used to come here from different parts of the country and from abroad as well and traffic congestion is one of the biggest problem in the city.

7. Since the date, when the High Court was established, every year, the strength of Advocates are increasing and as on today, more than 1200 Lawyers are those who are regularly practising here and out of 1200 lawyers, about 400 lawyers are young lawyers, who are facing the shortage of residential houses and the houses that are available, they are too expensive and during the peak tourist season, the owners used to compel Advocates to leave their houses, so that they may use their houses as "home stays". Apart from this, the cost of living in Nainital is very high, as it is tourist place. The State consists of 13 districts and most of them are hilly areas and there are so many remote places from where poor litigants has to come to Nainital to file their cases, which would takes 2-3 days to reach Nainital.

8. Apart from this, the poor litigants cannot afford expenses towards their visit to Nainital, even for some time, they cannot bear the counsel's fee. Certainly, the Courts are meant for

litigants to get easy and accessible justice, therefore, their grievances, problems and hardships are required to be considered.

9. One of the most crucial aspects is about medical facilities and despite the intervention by this Court in so many public interest litigations, medical facilities are not improved. There is no private nursing home in Nainital and in emergency situation, there is no medical facility. Not only this, even land and space is not available for expansion of existing B.D. Pandey Hospital, even doctors are not available and if they are available, they are not interested to serve in Nainital. Since last so many years, there was no Cardiologist in Nainital and the Cardiologists, who are available, they are demanding a very high salary.

10. This Court also gets information that one of the well practising lawyers of this Court Mr. Paresh Tripathi died due to lack of medical facilities.

11. Another aspect is with regard to connectivity to Nainital. There is only one mode to reach Nainital and that is by Road and out of which 35-40 km is completely hill area.

12. Furthermore, the Hon'ble Supreme Court directed that all the Courts of the country should run through hybrid mode i.e. virtually and physically and efforts should be made for paper less work and Advocates should be encouraged to file their petitions by way of e-filing. Advocates can also argue their case and represent their client in the Courts virtually from any place of the country or from abroad.

13. Keeping in view all these difficulties, which are facing by the litigants, public at large, young lawyers for the last so many years, a demand was raised by the advocate for shifting of the

High Court, therefore, Full Court was convened and the Full Court of this Court by resolution dated 15.09.2022, resolved to shift this Court.

14. We have perused the resolution dated 15.09.2022 passed by the Full Court. Since, the Full Court has resolved to shift the High Court from Nainital, therefore, it should now come to its logical conclusion.

15. After passing of the resolution, a process was initiated and land was identified at Golapur in Haldwani for shifting of the High Court. After thorough examination, what State Authorities realise that land identified at Golapur at Haldwani, measuring about 26 hectares is surrounded by dense forest, which is 75% of the land earmarked for the establishment of the High Court. So this Court does not want to uproot any of the trees to make a new High Court.

16. Every institution is established with a vision to remain established for a long period, therefore, we also want that High Court should be established at a new location so that there will be no need to shift it again in the next 50 years.

17. Keeping in view the larger public interest, hardships faced by litigants and young lawyers, lack of medical facilities and connectivity and the fact that in more than 75% of the cases, State Government is party and Government has to spend a huge amount on their TA & DA, shifting of High Court from Nainital is required.

18. In post lunch sessions, members of this High Court Bar including Senior Advocates and young Lawyers, address their grievances. We also think over it. We have considered their grievances, particularly, the grievances of the young lawyers.

19. Ms. Radha Raturi, Chief Secretary, State of Uttarakhand along with Mr. R.K. Sudhanshu, Principal Secretary to Chief Minister appears through V.C.

20. In the above facts and circumstances, we are formulating a procedure to expedite the issue of shifting of High Court from Nainital:

- a. The Chief Secretary, Government of Uttarakhand is directed to locate the best suitable land for establishment of High Court, for residential accommodation for Judges, Judicial Officers, Staff, Court Rooms, Conference Hall, Chambers for at least 7,000 lawyers, canteen, parking place, etc. and it has good medical facilities in the area and good connectivity. This entire exercise shall be completed by the Chief Secretary within a month and the Chief Secretary shall submit his report to this Court by 07.06.2024.
- b. Since opinion of practising lawyers is also very essential, therefore, Registrar General of this Court is directed to open a portal by 14.05.2024 and lawyers are free to give their choice by opting "YES" if they are interested for shifting of High Court and "NO" if they are not interested by indicating their enrolment number, date and signature. They shall exercise their option by 31.05.2024 and this date will not be extended.
- c. Opinion of the public at large is also very essential, since this State consists of 13 districts and the litigants come from every part of the State including very remote hilly area located in high altitude, therefore, such litigants or persons may also give their choice in the

same manner i.e. if they are in favour of shifting, they say "YES" and if they are not interested, they say "NO". Such person should also mention his Adhar Card Number and date and the deadline for exercising this option would be the same i.e. 31.05.2024 and this date will not be extended.

- d. This opinion will be furnished on the official website of the High Court by 31.05.2024 positively, and no further time shall be granted for this purpose. Registrar General of this High Court is directed to issue public notice in two local newspapers (Hindi and English) having wide circulation in the entire area of State of Uttarakhand including Garhwal and Kumaon regions i.e. Dainik Jagran, Amar Ujala, Times of India and Hindustan Times by 14.05.2024 so that options shall be exercised on or before the deadline of 31.05.2024.
- e. The High Court Bar Association may also suggest of the land for shifting of the High Court.
- f. A Committee is also being constituted comprising of Registrar General of Uttarakhand High Court, Principal Secretary, Legislative and Parliamentary Affairs, State of Uttarakhand and Principal Secretary, Home, State of Uttarakhand, Two Senior Advocates, one member from Uttarakhand State Bar Council nominated by its Chairman and another from Bar Council of India, nominated by its Chairman. This Committee will be headed by the Registrar General of Uttarakhand High Court. This Committee, after going through opinions, will submit its report by 07.06.2024 to this Court in a

sealed cover. Thereafter, recommendation of Government about suitable land for establishment of the High Court and result of options will be placed before the Chief Justice.

21. List on 25.06.2024.

22. Let a free certified copy of this order be given to the learned Advocate General for the State of Uttarakhand, the President of the High Court Bar Association, Chairman of the State Bar Council and Chairman of the Bar Council of India so that immediate action be initiated in order to implement the aforesaid directions.

Ritu Bahri, CJ.

Rakesh Thapliyal, J.

08.05.2024
SKS