

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI VIPIN SANGHI
AND
HON'BLE SRI JUSTICE R.C. KHULBE

19TH OCTOBER, 2022

WRIT PETITION (PIL) No. 93 OF 2022

Between:

Jitender Yadav.

...Petitioner

and

Union of India and others.

...Respondents

Counsel for the petitioner. : Mr. Dushyant Mainali, the learned counsel.

Counsel for the Union of India. : Mr. Lalit Sharma, the learned Standing Counsel for the Union of India.

Counsel for the State of Uttarakhand. : Mr. C.S. Rawat, the learned Chief Standing Counsel assisted by Gajendra Tripathi and Mr. B.P.S. Mer, the learned Brief Holders for the State of Uttarakhand.

Counsel for the respondent no. 5. : Mr. Rajeev Bhatt, the learned counsel.

Counsel for the respondent no. 6. : Mr. Ravi Bisht, the learned counsel holding brief of Mr. Aditya Pratap Singh, the learned counsel.

Counsel for the Nagar Palika Parishad, Haldwani. : Mr. Ashish Joshi, the learned counsel.

Counsel for the Nagar Palika Parishad Nainital : Mr. D.S. Patni, the learned Senior Counsel assisted by Mr. Dharmendra Barthwal, the learned counsel.

ORDER : (per Sri Vipin Sanghi, C.J.)

In paragraph nos. 15, 16 and 17 of our order dated 07.07.2022, we had directed the Uttarakhand State Pollution Control Board as follows :-

"15. We direct the respondent Uttarakhand State Pollution Control Board to state, on affidavit, as to how

many manufacturers, brand owners or importers, have registered themselves with the said Board in terms of Rule 13 of the Rules. They should also indicate the particulars of those producers, importers, and brand owners, who have not sought registration and complied with their obligation under the said Rules, and who are manufacturing plastic products/raw materials or are importing into the State, or selling their brand of goods within the State of Uttarakhand, while using nonbiodegradable plastic.

16. We also direct that those producers, importers and brand owners, who do not register with the Uttarakhand State Pollution Control Board within the next fifteen days, shall not be permitted to either produce, or import into the State of Uttarakhand, or sell products of their brands, in the State of Uttarakhand, and the State shall ensure that all such products, which are contained in plastic sachets or pouches or packaging, are not permitted to enter the boundary of the State, or sold, in any manner whatsoever. Wide publicity shall be given to these directions by the State, so that all concerned have notice of it.

17. Since the primary responsibility for collection of used multi-layered plastic, sachets, or pouches, or packaging is of the producers, importers and brand owners, and it is their obligation to prepare their plan for collection and to submit the same to the Uttarakhand State Pollution Control Board while applying for consent, the Uttarakhand State Pollution Control Board shall also require all producers, importers and brand owners to strictly comply with this requirement. The affidavit to be filed by the Uttarakhand State Pollution Control Board should also indicate as to how many producers, importers and brand owners have provided the said plans, and those producers, importers and brand owners, who do not provide their plans for collection in the next 15 days, shall not be permitted to either produce, import or sell their brands, in the State of Uttarakhand, in plastic receptacles."

2. Mr. Aditya Pratap Singh, who appears for the Uttarakhand State Pollution Control Board, is not present today.

3. Mr. Dushyant Mainali, the learned counsel for the petitioner, states that he was informed by Mr. Aditya Pratap Singh that only 174 producers, importers and brand owners have registered themselves with the Board, in terms of Rule 13, till date. He further states that Mr. Singh has informed him that, in the next 10 days, he shall file an updated status report in that regard.

4. We reiterate our aforesaid directions, including our direction in paragraph no. 16, as quoted above. We direct all the State authorities to ensure strict compliance of the said order, breach whereof would be viewed seriously.

5. In paragraph no. 20 of our order dated 07.07.2022, we had directed the Commissioners, i.e. the Commissioner, Kumaun and Commissioner, Garhwal, to ensure compliance by all the District Magistrates of the directions issued by us, apart from ensuring that the District Magistrates comply with their obligations, and discharge their responsibilities under the laws framed for keeping the environment free from pollution, *inter alia*, due to non-biodegradable plastic waste.

6. Till date, the Commissioners have not filed their respective affidavits disclosing as to what steps they have taken to monitor the working of the District Magistrates in the discharge of their obligations. What we find from the various affidavits filed before us is that the various authorities, including the State Level Monitoring Committee, have been issuing paper directions to authorities subordinate to them, particularly to the Urban Local Bodies, and the District Magistrates. However, there is no monitoring of the directions being issued, let to find out whether they are being implemented.

7. We make it clear that mere issuance of such directions on paper by the higher authorities cannot be considered as discharge by them of their respective obligations, as it falls on them to ensure that their directions are complied with. It is necessary that the higher authorities monitor the implementation of the directions issued by them, by calling for actual reports, and by undertaking site visits and ground surveys. However, that does not appear to have been resorted to at all. The issues we are confronted with cannot be resolved merely by sitting in a closed office room.

8. We direct the Commissioner, Kumaun and Commissioner, Garhwal, to hit the ground with the respective District Magistrates falling within their respective jurisdiction, and to make ground surveys, town by town and village by village, to ensure that Solid Waste Management is implemented in true letter and spirit. Compliance affidavits shall be filed by the Commissioner, Kumaun and Commissioner, Garhwal before the next date, failing which they shall remain present in Court to explain their non-compliance of our directions.

9. We direct the Registrar (Judicial) of this Court to create an E-mail ID, namely solidwaste-complaint@uk.gov.in, which shall be open to the public at large to send their complaints regarding the solid waste, which is collected and not removed in any part of the State, be it within municipal limits, or in rural/forest areas. On the said E-mail ID, only complaints regarding solid waste, of whatever kind, would be entertained. Along with the complaint, the complainant should also upload the photographs to show the collection/ non-disposal of solid waste, clearly identifying its location. The complainant should clearly provide his/her identity and contact details. The complaints, which are received,

shall be perused by the Registrar (Judicial) after 05:00 P.M. every day. These complaints shall be printed out, provided they relate to issues regarding solid waste in the State, and not otherwise. The complaints, as received, shall also be forwarded to the respective Commissioners of Kumaun and Garhwal electronically on their respective E-mail IDs, depending on whether the complaint relates to Kumaun or Garhwal region. It shall be the responsibility of the respective Commissioners to then have the complaints actioned. The Commissioners shall revert within two working days of the complaints being forwarded by the Registrar (Judicial) to inform as to what steps have been taken in respect of the complaints so received.

10. We direct the State to circulate the aforesaid E-mail ID in the entire State by publishing the same in daily newspapers and local Doordarshan channels, and encouraging the people to log their complaints with necessary particulars. All the District Magistrates are also directed to ensure the circulation of the said E-mail ID within their respective districts.

11. A tabulation of the complaints as well as the response received in regard thereto from the respective

Commissioners, shall be placed before the Court by the Registrar (Judicial), before each date of hearing.

12. The respondent authorities shall file their further affidavits on record before the next date.

13. The petitioner may file his supplementary affidavit(s) in the light of the affidavits filed on record.

14. List this case on 24.11.2022.

15. Urgent certified copy of this order be supplied to the learned counsel for the parties, during the course of the day, as per Rules.

VIPIN SANGHI, C.J.

R.C. KHULBE, J.

Dt: 19th October, 2022
Rahul