

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (PIL) No. 74 of 2019

Rakshit JoshiPetitioner

Vs.

State of Uttarakhand and others. ...Respondents

Sri B.P. Nautiyal, learned Senior Counsel assisted by Sri M.C. Pant, learned counsel for the petitioner.

Sri Paresh Tripathi, learned Chief Standing Counsel for the State of Uttarakhand / respondent nos. 1 to 4, 6, 7 & 10.

Sri Aditya Pratap Singh, learned counsel for respondent no. 9.

Sri Virendra Kaparwan, learned Standing Counsel for the Union of India / respondent nos. 5 & 8.

Sri Narendra Bali, learned counsel for respondent no. 11.

Sri T.S. Bindra, learned counsel for respondent nos. 12 and 13.

Sri Arvind Vashisth, learned Senior Counsel assisted by Sri Imran Ali, learned counsel for respondent no. 14.

Dated: 17th June, 2019

Coram: Hon'ble Ramesh Ranganathan, C.J.
Hon'ble Alok Kumar Verma, J.

Ramesh Ranganathan, C.J. (Oral)

The event organizer 'E-Factor Entertainment Private Limited, A-49, Block A, Sector 67, NOIDA, U.P. 201301' is impleaded, suo-motu, as respondent no. 14 in the writ petition. The Garhwal Mandal Vikas Nigam, through its Managing Director, shall stand impleaded, suo-motu, as respondent no. 15. A set of papers shall be handed over by Sri M.C. Pant, learned counsel for the petitioner, to Sri Sandeep Kothari, learned counsel for the 15th respondent, today to enable him to obtain instructions by tomorrow.

2. While the petitioner claims that Auli, where this grand marriage is scheduled to be held, was the subject matter of the judgment of the Division Bench of this Court in **Aali-Bedini Bagzi Bugyal Sanrakshan Samiti vs. State of Uttarakhand and others (order in WPPIL No. 123 of 2014 dated 21.08.2018)**; and the land, where the marriage is proposed to be celebrated and on which a large number of tents have already been erected, is a part of meadow-lands, Sri Arvind Vashisth, learned Senior Counsel appearing on behalf of the 14th respondent, would submit that the subject lands do not form part of the meadows; "Aali" village,

which was the subject matter of Writ Petition (PIL) No. 123 of 2014, is situated in Tharali sub-division of Chamoli district, whereas “Auli”, where the marriage celebrations are to be held, is situated in Joshimath sub-division of Chamoli district; the subject lands are not meadows; and the marriage event, being organized from 17th June to 23rd June, 2019, is, therefore, not covered by the order of the Division Bench in the aforesaid judgment.

3. The Division Bench, in its order in Writ Petition (PIL) No. 123 of 2014 dated 21.08.2018, issued the following directions:

“A. The State Government is directed to remove all the permanent structures from the alpine meadows/ sub-alpine meadows/ Bugyals in the State of Uttarakhand including Aali-Bedini-Bagzi Bugyals within a period of three months.

B. The State Government is directed to constitute the Eco-Development Committees within six weeks in 55 eco-sensitive zones throughout the State of Uttarakhand to protect and preserve the nature, environment and ecology.

C. The State Government is directed to restrict the number of tourists (not more than 200) visiting the alpine meadows/ sub-alpine meadows/ Bugyals.

D. No person including the State Public Undertakings/ Private Entrepreneurs shall construct any permanent structure on the alpine meadows/ subalpine meadows/ Bugyals throughout the State of Uttarakhand.

E. The overnight stay in the Alpine meadows/ Subalpine meadows/ Bugyals is banned.

F. The commercial grazing of cattle is banned on alpine meadows/ sub-alpine meadows/ Bugyals forthwith. The local shepherds alone will be permitted to graze their cattle on the alpine meadows/ sub-alpine meadows/ Bugyals by imposing reasonable restriction on the number of cattle.

G. All the District Magistrates throughout the State of Uttarakhand are directed to ensure removal of plastic water bottles, cans etc. from the alpine meadows/ sub-alpine meadows/ Bugyals within six weeks from today.

H. The State Government is also directed to ensure that no encroachment is made in these alpine meadows/Bugyals in any form, even in the name of religion. The encroachments already made are ordered to be removed within three months from today by issuing notices.

I. The State Government is directed to conduct systematic survey of its flora at the earliest to prepare comprehensive manual, as recommended by the experts within six months from today.

J. Every forest division should have a herbarium of important medicinal, rare, threatened and botanically interesting plants for reference. The exploitation of medicinal plants should be limited and it should be done only through Government/Public sector, as recommended by the experts.

K. The State Government is also directed to introduce rotational grazing of cattle in alpine meadows/ subalpine meadows/ Bugyals, as recommended by experts, where alternative sites are available. The stay of livestock is ordered to be reduced, as recommended by the experts.

L. The State Government is directed to consider declaring all import high altitude valleys and alpine meadows/ sub-alpine meadows/ Bugyals with rich plant as high altitude National Parks/Sanctuaries, within a period of six months from today.”

4. The aforesaid order of the Division Bench continues to remain in force and, if the subject lands are meadow-lands, then both the Nagar Nigam and the Garhwal Mandal Vikas Nigam must be held to have accorded permission contrary thereto.

5. Since Sri B.P. Nautiyal, learned Senior Counsel appearing for the petitioner, and Sri Arvind Vashisth, learned Senior Counsel appearing for the 14th respondent, have taken diametrically opposite stands regarding the nature of the land, on which the marriage festivities are being organized, we direct the State Government to inform this Court by tomorrow, i.e. 18.06.2019, regarding the nature of the land, firstly whether the subject land is covered by the order of the Division Bench in Writ Petition (PIL) No. 123 of 2014 dated 21.08.2018; and secondly whether these lands are meadow-lands. Sri Paresh Tripathi, learned Chief Standing Counsel appearing on behalf of respondent nos. 1 to 4, 6, 7 & 10, undertakes to inform this Court, by tomorrow i.e. 18.06.2018, whether Auli, where the marriage celebrations are being held, falls within the scope of the judgment of the Division Bench, in Writ Petition (PIL) No. 123 of

2014 dated 21.08.2018; and whether the subject lands are meadow-lands.

6. Even if, as is contended by Sri Arvind Vashisth, learned Senior Counsel, the subject lands are meadow-lands, and are not covered by the aforesaid judgment of the Division Bench, the State Government and its instrumentalities must ensure that these mindless pursuits of holding large scale marriage celebrations at exotic locations in such a large scale, and at places where such mega-events have never been conducted earlier, do not result in irreparable environmental degradation of the said area.

7. While it is debatable whether the authorities were justified in granting such permissions, interdiction by this Court, at this belated stage when the events are scheduled to commence today i.e. 17.06.2019, may result in the marriage being called off, causing irreparable injury to the families concerned. While that, by itself, may not justify the private respondents being permitted to damage the sensitive ecology of the upper Himalayas, where Auli is situated, the least that must be done is to minimize any adverse effect which this large-scale event may have on the fragile ecosystem at Auli.

8. The proceedings issued by the Garhwal Mandal Vikas Nigam shows that permission has been granted by them not only for putting up huge tents, but also for running helicopter services. Sri B.P. Nautiyal, learned Senior Counsel appearing on behalf of the petitioner, contends that, except for an Army Base, there is no other helipad at Auli. If, as is contended on behalf of the petitioner, there is no helipad at Auli and, prior to this event, helicopter services were not being provided to the said place, the private respondents shall neither construct a helipad nor extend helicopter services to such places where there is no helipad, as that would have an adverse impact on the environment. It is open to them to use the nearest

helipad after obtaining the requisite permissions from the authorities concerned.

9. The 14th respondent shall furnish to the 9th respondent today itself, and to this Court tomorrow i.e. 18.06.2018, information regarding use of pollution causing equipments, such as heating equipment, generators, gas-stoves and gas-cylinders etc. which they intend to use for the event, as also the number of persons who would be present at the wedding, including the family of respondents 12 and 13, their guests and the personnel serving them during this period from 17th to 23rd June, 2019. The 9th respondent shall suggest necessary measures, by tomorrow i.e. 18.06.2019, to ensure that the adverse impact of this event, on the ecology of the area, is kept to the barest minimum.

10. As the private respondents are residents of South-Africa and Dubai, and it may not be possible for this Court later to recover the costs required to be incurred for restoration of the area, we are of the, prima facie, view that respondent nos. 12 & 13 should deposit a sum of Rs. 5 crores with the Government of Uttarakhand, before the marriage event commences, to enable the State Government to meet the expenditure required to be incurred in restoring the area after conclusion of the event. Needless to state that, any amount, remaining after such expenditure is incurred, can always be refunded to respondent nos. 12 & 13 later.

11. Sri T.S. Bindra, learned counsel for respondent nos. 12 & 13, would submit that this Court may, instead, consider reducing the deposit amount to Rs. 2 crores i.e. Rs. 1 crore within two days from today, and Rs. 1 crore within two days thereafter i.e. the entire amount of Rs. 2.00 crores to be deposited before 22.06.2019, on which date the marriage is to take place. Learned counsel would request that the matter be taken up tomorrow to enable him to ascertain whether respondent nos. 12 & 13 are willing to deposit a sum higher than Rs. 2.00 crores by 21.06.2019.

12. Sri Aditya Pratap Singh, learned counsel for the 9th respondent, suggests that a team of officers, from the State Pollution Control Board, could be deputed to be present in Auli for the entire duration upto 23.06.2019; and prior written permission of the Head of the team be directed to be obtained by respondent nos. 12 & 13 before taking any action which may adversely impact the environment. He also requests that the matter be taken up tomorrow to enable him to obtain detailed instructions of the measures which can be put in place to minimize any damage being caused to the eco-system at Auli.

13. We request the Member Secretary of the Uttarakhand State Pollution Control Board to be present in person, or to depute an Expert to be present, in Court tomorrow to assist the Court in stipulating the measures required to minimize the environmental damage which may be caused to Auli as a result of this mega-event.

14. List this matter as Item No. 1 on 18.06.2019.

15. The parties are permitted to enter their appearance through their counsel today.

16. Let a certified copy of this order be furnished to the parties, on payment of prescribed charges, today itself.

(Alok Kumar Verma, J.)

17.06.2019

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(Ramesh Ranganathan, C.J.)

17.06.2019