

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (PIL) No.6 of 2012

Himalayan Yuva Gramin Vikas Sansthan
.... Petitioner

Versus

State of Uttarakhand & Ors. Respondents

Mr. C.K. Sharma, Advocate for the petitioner
Mr. J.P. Joshi, Additional Advocate General along with Mr. Sushil
Vashishtha, Brief Holder for the State.
Mr. Dharmendra Barthwal, Advocate for the Gram Panchayat, Dhikuli.

Dated: 3rd August, 2018

**Coram : Hon'ble Rajiv Sharma, J.
Hon'ble Lok Pal Singh, J.**

[Per: Hon'ble Rajiv Sharma, J.]

Learned Additional Advocate General appearing for the State submits at bar that due to the paucity of time the affidavit could not be filed. Since the reply is being filed by the Chief Secretary to the State of Uttarakhand, the swearing of affidavit is exempted.

2. It has been brought to the notice of the Court by Mr. C.K. Sharma, Advocate for the petitioner and Mr. Dharmendra Barthwal, Advocate for the Gram Panchayat, Dhikuli that there is no restriction of number of vehicles plying in Ramnagar Forest Divisions including Sitabani, Bijrani and Dhela zones. They also submit that the private vehicles are also permitted to ply in Sitabani, Bijrani, Dhela zones including Kalagarh and Rajaji National Park causing disturbance to the wildlife. We are of the considered view that number of vehicles plying in Ramnagar Forest Divisions including Sitabani, Bijrani, Dhela, Kalagarh zones and Rajaji National Park should be

drastically restricted. Only those commercial gypsies should be permitted to ply in these zones to whom permits have been issued by the concerned R.T.Os./DFOs.

3. A startling revelation has been made before the Court by Mr. C.K. Sharma and Mr. Dharmendra Barthwal, Advocates that the elephants are chained, ill-treated and few elephants are blind but still being used commercially by the owners of the resorts in Corbett Tiger Reserve area, causing immense cruelty to the elephants. Their conditions are pathetic. Their captivity is in violation of Sections 40 and 42 of Wildlife Protection Act, 1975.

4. Accordingly, we hereby issue the following directions to the State Government: -

A. The State Government is directed that not more than 100 vehicles i.e. private gypsies/commercial gypsies shall be permitted to enter in Sitabani, Bijrani and Dhela zones including Kalagarh and Rajaji National Park, in a day. Only those private gypsies /commercial gypsies would be permitted to ply to whom valid permits have been issued by the R.T.O. and concerned D.F.Os. The Wildlife Institute, Dehradun, is directed to carry out survey within three months from today to assess the carrying capacity of these zones qua the number of vehicles which can be permitted to ply to avoid minimum disturbance to the wildlife.

B. The Chief, Wildlife Warden, State of Uttarakhand is directed to publish list of these private gypsies/commercial gypsies with their registration numbers, owners' name and drivers' name in the official website.

C. The commercial use of elephants in the entire State of Uttarakhand is banned till further orders of

the Court including joyrides/rides by the owners of resorts. The Chief, Wildlife Warden through D.F.Os., is directed to take over the possession of elephants from the owners by issuing them proper receipt for their treatment, medical examination and proper upkeep within 24 hours. The elephants shall be temporarily kept at Rajaji National Park, Chilla. The injured/maim elephants shall be attended to by the Veterinary Doctors within 12 hours from today.

D. The Senior Superintendents of Police of Nainital, Udham Singh Nagar, Haridwar and Pauri Districts are directed to render all assistance to the DFOs to save the elephants.

F. The Chief Wildlife Warden through the concerned D.F.Os. is directed to issue notices to the owners of the elephants to explain under what law, they are using the elephants commercially including joyrides in breach of the Wildlife Protection Act, 1972 and the Prevention of Cruelty to Animals Act, 1960.

G. The Regional Transport Officer of the concerned area is directed to issue separate permits for the Corbett Tiger Reserve, Sitabani, Bijrani, Dhela, Kalagarh zones and Rajaji National Park.

H. No private vehicle shall be permitted to ply in Sitabani, Bijrani, Dhela zones including Kalagarh and Rajaji National Park.

5. Response to today's directions shall also be incorporated in the compliance affidavit to be filed by the next date.

6. List on 06.08.2018 at 04:00 pm.

7. Let a copy of this order be issued to all concerned today itself as per the Rules.

(Lok Pal Singh, J.)
03.08.2018

(Rajiv Sharma, J.)
03.08.2018