

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (PIL) No. 29 of 2020

Chandra Shekhar Joshi

.....Petitioner.

Vs.

State of Uttarakhand and others

..... Respondents.

Dated: 28th February, 2020

**Coram: Hon'ble Ramesh Ranganathan, C.J.
Hon'ble R.C. Khulbe, J.**

Hon'ble Ramesh Ranganathan, C.J. (Oral)

Heard Mr. Shakti Singh, learned Counsel for the petitioner and Mr. C.S. Rawat, learned Chief Standing Counsel for the State, and, with their consent, this writ petition is disposed of at the stage of admission.

2. The public interest litigation jurisdiction of this Court is invoked by an advocate practicing in this Court seeking a direction to the respondent authorities not to restrain lawyers in the morning when they are heading towards the Court to perform their duties, as any hindrance to them would cause irreparable loss and injury to the society; and for a writ of mandamus directing the respondent authorities, that, considering the necessity and exigencies of persons moving in the morning towards their scheduled destination, they may not be stopped in lieu of movement of political persons.

3. The petitioner's grievance is that vehicles, coming from Haldwani to Nainital city, were stopped on 27.02.2020 for VIP movement. While the writ affidavit does not specify who the VIPs were, Mr. Shakti Singh, learned Counsel for the petitioner, would submit, across the bar, that the Chief Minister of the State had visited the city of Nainital yesterday in connection with a programme; and traffic restrictions were placed in connection therewith causing needless inconvenience to commuters.

4. While needless restrictions should not be placed on vehicular movement, judicial notice can be taken of the fact that, during the tourist season, the large influx of vehicles plying to and fro Nainital, causes huge traffic congestions resulting in vehicles taking twice or thrice the normal time

taken to travel between Nainital and Kathgodam. The duty to control and regulate traffic is entrusted to the police, and this Court would not, in the exercise of its extra-ordinary jurisdiction under Article 226 of the Constitution of India, take upon itself the task of monitoring and regulating vehicular traffic into the city. We must also bear in mind that restrictions are placed on vehicular movement only for a few of those who hold constitutional posts and, in the case of the Chief Minister of the State, traffic restriction is imposed taking into consideration several factors including security cover to prevent any untoward incident. No mandamus would, ordinarily, be issued by this Court to withdraw traffic restrictions, for this Court, in the exercise of its power of judicial review under Article 226, would not be in any position to determine whether, taking into consideration different factors, the decision to restrict vehicular movement, in view of the visit of the Chief Minister of the State, is justified or not.

5. We are, however, satisfied that the number of VIPs to whom such a benefit is extended ought to be kept to the barest minimum to avoid needless inconvenience to commuters. Mr. C.S. Rawat, learned Additional Chief Standing Counsel appearing for the State, on instructions, submits that this facility is not extended to all public representatives, and is confined only to the President of India, the Vice President, the Prime Minister, the Chief Justice of India, the Governor of the State, and the Chief Minister of the State. He assures this Court that necessary instructions would be given to the Senior Superintendent of Police, Nainital to ensure that traffic restrictions are kept to the bare minimum to avoid inconvenience to the general public.

6. As restriction on vehicular movement is confined only to the aforesaid categories, and it is not as if these dignitaries visit the city of Nainital regularly, we see no reason to interfere or to grant the relief sought for in the writ petition. If the petitioner is justified in his claim that no special treatment should be extended even to the aforesaid persons holding a constitutional office, the relief sought for in the writ petition, that advocates should be exempted from this traffic restriction, would also require special treatment being accorded to this category of persons i.e. Advocates.

7. We see no reason, therefore, to entertain this writ petition, more so as it appears to us to be more in the nature of a publicity interest litigation,

which, in terms of Rule 2(g) r/w Rule 3(1) of the High Court of Uttarakhand PIL Rules, 2010, should not be entertained.

8. In the light of the submission, urged on behalf of the State Government, by Mr. C.S. Rawat, learned Additional Chief Standing Counsel for the State, we see no reason to entertain this writ petition. Recording the submission of the Additional Chief Standing Counsel, that the Senior Superintendent of Police, Nainital would ensure that traffic restrictions on vehicular movement, for the purpose of VIP visits to the city of Nainital, shall kept to the barest minimum, the writ petition fails and is, accordingly, dismissed. No costs.

(R.C. Khulbe, J.)

(Ramesh Ranganathan, C.J.)

28.02.2020

Rdang/Balwant