

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO(S). 1249/2019

THE STATE OF UTTARAKHAND & ANR.

APPELLANT(S)

VERSUS

IN THE MATTER OF THE PROTECTION OF FOREST, ENVIRONMENT,
ECOLOGY, WILDLIFE ETC. FROM THE FOREST FIRE ETC. RESPONDENT(S)

(IA No. 1/2017 - EXEMPTION FROM FILING O.T.
IA No. 2/2017 - PERMISSION TO FILE LENGTHY LIST OF DATES)

WITH

C.A. No. 1250/2019 (X)
(FOR [PERMISSION TO FILE ANNEXURES] ON IA 41353/2017
FOR EXEMPTION FROM FILING O.T. ON IA 41356/2017
FOR CLARIFICATION/DIRECTION ON IA 135275/2017
FOR impleading party ON IA 12333/2018
FOR INTERVENTION/IMPLEADMENT ON IA 12333/2018
FOR impleading party ON IA 12337/2018
FOR INTERVENTION/IMPLEADMENT ON IA 12337/2018
FOR EXEMPTION FROM FILING O.T. ON IA 12369/2018
FOR EXEMPTION FROM FILING O.T. ON IA 12373/2018
IA No. 135275/2017 - CLARIFICATION/DIRECTION
IA No. 12373/2018 - EXEMPTION FROM FILING O.T.
IA No. 12369/2018 - EXEMPTION FROM FILING O.T.
IA No. 41356/2017 - EXEMPTION FROM FILING O.T.
IA No. 12337/2018 - INTERVENTION/IMPLEADMENT
IA No. 12333/2018 - INTERVENTION/IMPLEADMENT
IA No. 41353/2017 - PERMISSION TO FILE ANNEXURES)

CONMT.PET.(C) No. 566/2018 in SLP(C) No. 15477/2017 (X)
(FOR EXEMPTION FROM FILING O.T. ON IA 79663/2018
IA No. 79663/2018 - EXEMPTION FROM FILING O.T.)

W.P.(C) No. 767/2019 (PIL-W)
(FOR EXEMPTION FROM FILING O.T. ON IA 89435/2019
FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA
148089/2019, FOR impleading party ON IA 32705/2021
FOR INTERVENTION/IMPLEADMENT ON IA 32705/2021
IA No. 89435/2019 - EXEMPTION FROM FILING O.T.
IA No. 32705/2021 - INTERVENTION/IMPLEADMENT
IA No. 148089/2019 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 15-05-2024 These matters were called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE S.V.N. BHATTI
HON'BLE MR. JUSTICE SANDEEP MEHTA**

**Mr. K. Parameshwar, Adv. (Amicus Curiae)
Ms. Kanti, Adv.**

For Appellant(s)

**Mr. Jatinder Kumar Sethi, D.A.G.
Mr. Akshat Kumar, AOR
Mr. Ashutosh Sharma, Adv.**

**Mr. K B Thakur, Adv.
Mr. Shashank Singh, Adv.
Mr. Madan Chandra Karnatk, Adv.
Mr. Ravindra S. Garia, AOR**

Mr. Jaswant Singh Rawat, AOR

**Mr. Krishna Ballabh Thakur, AOR
Mr. Shashank Singh, Adv.
Mr. Lokesh Kumar Gunjan, Adv.
Mr. Abhishek Kumar Sharma, Adv.
Mr. Rajul Srivastava, Adv.
Ms. Rashmi Kumari, Adv.
Mr. Abhishek Prasad, Adv.**

Petitioner/Applicant-in-person

For Respondent(s)

**Mr. Jatinder Kumar Sethi, D.A.G.
Mr. Akshat Kumar, AOR
Mr. Ashutosh Sharma, Adv.**

**Ms. Namita Choudhary, AOR
Mr. Ashutosh Kumar Sharma, Adv.
Ms. Srishti Choudhary, Adv.**

Mr. Kuldip Singh, AOR

**Mr. Umang Shankar, AOR
Mr. Ramesh Kumar, Adv.
Mr. Gagan Arora, Adv.**

Applicant-in-person

**UPON hearing the counsel the Court made the following
O R D E R**

1. In the note submitted by Mr. Jatinder Kumar Sethi, Deputy Advocate General for the State of Uttrakhand, the following issues

have been raised:-

- i. The Annual plan of Forest fire management under Central Sponsored Scheme - forest fire prevention and mitigation scheme for FY 2024-25 had already been submitted to FPD, MoEF&CC. Request is for timely sanction and release of funds.
- ii. A five year perspective Forest fire management plan had been prepared by Uttarakhand Forest Department incorporating the short term and long term measures including state of art technology, centre of excellence for the State, AI for fire protection and modelling risk factors, live visualization and forest fire monitoring/reporting app, replication of community based good initiative, decision support system (DSS), etc. Request is for timely sanction and release of funds.
- iii. Exemption of field officials of the Forest Department from the Election/Char Dham Yatra and other related activities duties during the forest fire season.
- iv. Provision of timely disbursement of NDMF/SDMF funds and resources (deployment of personnel and vehicles) to the forest department for forest fire mitigation by NDMA/SDMA.
- v. Mandatory provision (5-7%) for the industries/factories to consume biomass specially pine needle-based fuel in their boilers/furnaces in the State.
- vi. There is need of engagement of additional fire watchers for the crew stations in the divisions when there is continuous dry-spell prevailing. For this engagement additional funds are required from MoEF&CC/State Government.
- vii. In the current fire season, for ensuring forest fire prevention/mitigation, a total of 41 mobile crew teams having forest field staff/fire watchers have been deployed along the

chardham routes along with vehicles (each mobile crew team for a stretch of around 20 kms.).

viii. Chir Pirul (Pine needles) collection is also being done involving Self Help Groups at present to provide raw material to the pirul based briquettes/pellets units which are operational.

2. In the note submitted by Mr. K. Parameshwar, learned Amicus Curiae, the following figures have been given, which are taken from the Report submitted by the State Government:-

Scheme	FY	Demand	Sanction	Release
CSS	2023-24	39.39 Cr	14.02 Cr	3.755 Cr
CAMPA		10Cr	8.0Cr	3.4059 Cr
State Plan		16.59 Cr	16.59 Cr	16.59 Cr
Total		65.98 Cr	38.61 Cr	23.75 Cr

3. Taking into consideration the importance of controlling the fires in the forest of State of Uttarakhand, we had requested Ms. Aishwarya Bhati, learned Additional Solicitor General of India to take instructions with regard to the disbursement of the fund for the financial year 2023-24.

4. Ms. Aishwarya Bhati, learned Additional Solicitor General of India, in the second half, informed that insofar as the funds to be disbursed from Central Sponsored Scheme, she has no instructions and she will require some more time to take instructions from the Department concerned. However, insofar as CAMPA Funds are concerned, she submitted that CAMPA Funds are lying with the State Government and it is for the State Government to release them for the works undertaken by the Forest Department.

5. It is further stated that the Central Authority had already sanctioned an amount of Rs.9.12 Crores for the financial year 2023-24.

6. Shri Mohan, Principal Chief Conservator of Forest and the Head

of Forest Forces (HoFF), who is present in the Court virtually, states that an amount of Rs. 2 Crores has already been released for present year and steps are being taken for releasing the balance amount.

7. We are at pains to say that the approach of the State of Uttarakhand in controlling the fire to say the least, is lackadaisical. Though action plans have been prepared and finalized no steps are being taken for implementation of the same. When the CAMPA Fund is very much available and also sanctioned by the Central Authority we see no reason as to why only 'Rs.3.40 Crores out of Rs. 9.12 Crores' were being released for the forest activities for the year 2023-24. We see no reason as to why the balance amount out of Rs.9.12 Crores was not utilized for the forest activities.

8. Another issue that needs to be addressed is with regard to the huge vacancies in the Forest Department of the State of Uttarakhand. Shri K. Parameshwar, learned Amicus Curie, as well as Shri Rajiv Dutta, applicant-in-person, submit that on account of large number of vacancies the force is not available for controlling the forest fires.

9. Shri Mohan, states that 1250 vacancies have been filled and steps are being taken for filling up the remainder of the vacancies.

10. Insofar as the issue with regard to the exemption of the Field Officers of the Forest Department from the Election/Char Dham Yatra and other related activities is concerned, the Election Commission of India, by various orders, has exempted requisitioning of the forest staff as well as the forest vehicles for the election and allied purposes.

11. Be that as it may, we direct that in all the States the forest staff as well as the forest vehicles shall not be requisitioned for the election purposes or any other purposes like Char Dham Yatra.

12. One of the grievances the State has addressed is regarding failure of timely disbursement of the National Disaster Management Fund/State Disaster Management Fund (NDMF/SDMF) and non-

availability of resources (Deployment of Personnel and Vehicle). We fail to understand as to how the State should have grievance with regard to the disbursement of the SDMF, inasmuch as it is within the domain of the State to disburse the said fund. Insofar as the NDMF is concerned, we will consider passing appropriate orders.

13. It is further pertinent to note that on one hand the State contends that the resources i.e. the manpower and the vehicles are not available and on the other hand keeps large number of vacancies unfilled.

14. Shri Rajiv Dutta, applicant in person, further submits that in Ranikhet the Army is using pine needles for generation of electricity, He suggests that considering the same to be an example the State Government should also consider using the pine needles for either generation of electricity or generation of biogas. We find that the State Government needs to take some concrete decision in that regard.

15. Insofar as the inadequacy of funds is concerned, we fail to understand as to how the State Government can make such a grievance when a huge amount of CAMPA Fund is lying with it and is not releasing it for the forest related activities.

16. Shri Gaurav Kumar Bansal, petitioner/applicant in person, submits that the salaries of the contractual/daily wage staff, who have been deployed by the Forest Department have not been paid for months together and writ petitions are being filed for the said purpose by such labourers/employees.

17. We, therefore, direct the Union of India to explain their position with regard to timely disbursement of the NDMF so also the timely disbursement of fund with regard to Central Sponsored Schemes.

18. We direct the Chief Secretary of the State of Uttarakhand to personally remain present before this Court on 17.05.2024 and explain:-

- i. As to why from the CAMPA Fund only Rs.3.40 Crores was released for the financial year 2023-24, when the Union of

India had sanctioned Rs.9.12 Crores. It shall also be explained as to whether the said fund is being utilized for other purposes, which are not related to forest activities.

ii. What steps were being taken for releasing the SDMF?

iii. As of now, how many vacancies are remaining unfilled and as to within how much period the said vacancies would be filled?

iv. The measures that State Government proposes to take for preventing fires on account of pine needles.

v. As to why the forest personnel were deployed on election duties, in spite of their being a specific exemption issued by the Election Commission of India.

vi. Why steps are not being taken for providing necessary equipments for fire fighting in various Districts, Talukas of the State?

vii. As to why the salaries/wages of the contractual employees/daily wagers have not been paid for such a long period?

19. List on 17.05.2024. To be taken up at the end of the miscellaneous Board.

(NARENDRA PRASAD)
DEPUTY REGISTRAR

(ANJU KAPOOR)
COURT MASTER