

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
ORIGINAL APPLICATION NO: 333 OF 2019**

**IN THE MATTER OF:**

FRIENDS & ANR

...APPLICANT

VERSUS

UNION OF INDIA & ORS

...RESPONDENTS

**(NDOH: 05.12.2022)**

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DATE: 03.12.2022

PLACE: NEW DELHI

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**BRIEF SUBMISSIONS AND STATUS REPORT ON BEHALF OF  
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**MOST RESPECTFULLY SHOWETH:**

1. That the above Original Application pending before this Hon'ble Tribunal seeks directions to save the country's one of the most popular hill stations Nainital. This famous hill town has been, for many decades, ruined by inordinate illegal constructions, anthropogenic activities and there by threat to its ancient and magnificent lake - which is one of the most beautiful, high-altitude natural lakes of the country, known all over the world for its rich avian life and butterflies but now facing an ecological death.
  
2. That this Hon'ble Tribunal vide order dated 12.04.2019, constituted a joint committee comprising the following members: (i)

Representatives of the Uttarakhand State Pollution Control Board

(ii) The District Magistrate, Nainital

(iii) The Secretary, Urban Development

3. That the Hon'ble Tribunal was pleased to pass the following directions in the afore mentioned order:

*"Before we consider the matter further, we find it necessary to obtain a factual and action taken report from a joint Committee comprising the representatives of the Uttarakhand State Pollution Control Board, District Magistrate, Nainital and Secretary, Urban Development which may be furnished within two months by email at ngt.filing@gmail.com. The nodal agency for compliance and coordination will be the District Magistrate, Nainital. We may also make reference to requiring a carrying capacity conducted.*

*A copy of this order be sent to the Uttarakhand State Pollution Control Board, District Magistrate, Nainital and Secretary, Urban Development by email.*

*The applicant may furnish a set of papers each to the Uttarakhand State Pollution Control Board, District Magistrate, Nainital and Secretary, Urban Development and file an affidavit of service within one week.*

*List for further consideration on 23.07.2019"*

4. That vide Order, dated: 17.12.2029, this Hon'ble Tribunal was pleased to observe as under:

*"The issue for consideration is remedial action against illegal constructions in catchment area of Naini Lake, Nainital. Vide order dated 12.04.2019, a report was sought from Uttarakhand State Pollution Control Board, District Magistrate, Nainital and Secretary, Urban Development with reference to the allegations in the application. A report filed by the District Magistrate, Nainital dated 24.10.2019 stating that the same issue is pending before the Uttarakhand High Court even before this Tribunal was moved. In view of the above, the applicants are at liberty to move the High Court for such relief as may be considered necessary. Adjourned sine die."*

5. That it is submitted that in the said report, the members of the joint committee provided a misleading report by citing three PILs pending before the Hon'ble Uttarakhand High Court at Nainital and claimed that the issues raised in the present OA have been already dealt with the Hon'ble Court and appropriate directions have been issued therein and the office of the District Magistrate Nainital as well as all the other concerned agencies are taking appropriate steps for compliance of the orders passed by the Hon'ble High Court.

6. That it would be appropriate to mention here that the first Writ Petition, PIL No 31/2012 Professor Ajay Rawat Vs Union of India and Ors, cited in the said report has been disposed of by the Hon'ble High Court, Nainital on 27.08.2019, two months before the submission of the said report by the Respondents.
  
7. That it is also noteworthy that the primary issue in the aforementioned PIL was to declare Nainital an eco-sensitive zone, apart from the preservation of the recharge zones of Naini lake, mainly Sukhatal, and the issue regarding illegal construction which is dangerous to the existence of this town. These issues have not been dealt with by the Hon'ble High Court while disposing the said PIL and the issues raised by the Applicants in the present Application could be well considered and are required to be dealt with by this Hon'ble Tribunal, as these large-scale, heavy constructions, which are illegal and contrary to the directions of the Hon'ble Supreme Court vide Judgment, dated: 09.03.1995, in Dr. Ajay Singh Rawat Vs Union of India & Ors. [(1995) 3 SCC 266], are still being permitted by the District Level Development Authority against the rules and against the safety and ecological sensitivity of Nainital town.

8. That it further submitted that the number of second Writ Petition (PIL) is missing in the document provided to the Applicants. As per the report the said order is pending as it was stayed by the Hon'ble Supreme court on January 22, 2018. The impugned order passed by the Hon'ble High Court, Nainital however is also not related to the issues raised in the present Original Application.
9. The third Writ Petition cited in the report is PIL No. 49/2009 (Kamal Nayan Tripathi Vs State of Uttarakhand and Others. The said Petition again deals with an entirely different issue as it has been clearly mentioned in the report that "The issue of pure drinking water for the residents of town was the main point in issue in the Writ Petition PIL". The said PIL was also disposed of on 17.08. 2020 without issuing any such directions that have been sought in the prayers of the present OA and IAs filed in it. Hence, the said report is an eyewash, with the intent and object to mislead this Hon'ble Tribunal and because of this aforesaid act of the Respondents, some vital issues have remained unaddressed for the past almost three years, during the pendency of the present Application.
10. That it is further submitted that after the *sine die* adjournment of the instant OA on 17.12.2019, the entire country was devastated due to the outbreak of

COVID 19 pandemic and in view of the pandemic the matter could not be effectively pursued by the Applicants, but the infringement of urban and municipal laws remained unabated. The unauthorized constructions went on unbridled and the local administration has played the role of an indifferent passer-by. The unauthorized constructions in the town have become a norm and sometimes it can be easily identified.

(Some photographs of the unauthorized constructions in Nainital Town area are being annexed herewith and marked as **ANNEXURE-A**).

11. That it is also submitted that many of these large-scale, heavy, dangerous and illegal constructions have led to massive landslides in the past and are still leading to smaller landslides which are being ignored by the local administration. A recent landslide has happened in the Old Grove region where massive commercial construction is being carried on by a builder for the past 20 years and entirely commercial constructions like flats and cottages are being constructed irrespective of the position dictated by the Hon'ble Supreme Court. Similarly there have been other private commercial construction activities and also massive construction just under the Cheena

peak/Naina peak hillock for the requirements of the staff of Hon'ble High Court of Uttarakhand. This has definitely led to the disturbance of the geology of the Naina peak, where recently a massive crack has been found.

12. That the said report has completely ignored the details of the illegal constructions specifically mentioned in the instant O.A. and presented a vague document to evade an issue of the utmost importance.
13. That the said report only superficially and vaguely mentions about the assessment of the carrying capacity of Nainital by NEERI, without giving any account thereof.
14. That the said report also fails to give an account of the total number of surface and sub-surface streams feeding the Naini Lake and its surrounding cluster of lakes, i.e., the Bhimtal, Naukuchiyatal, Sattal and the Khurpatal, which are hydrologically connected to each other and the action plan to revive such streams and restore the water balance and hydrological security of the Naini Lake and, thereby, the water and ecological security of the Nainital town.
15. That it is evident from the above that the members of the joint committee have voluntarily and deliberately

overlooked the gravity of the issues raised in the instant O.A. and have shown utter disrespect towards the directions of this Hon'ble Tribunal.

16. That it is further submitted that the issue raised in the instant OA is a very serious issue as it pertains to the existence of a very beautiful and popular Himalayan Town and its marvelous lake which are facing a fast and alarming ecological and environmental degradation.

### **PRAYER**

In the light of the above stated facts and circumstances, it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to direct the Respondents to submit the carrying capacity study of Nainital as assessed by NEERI and pass Order(s) and Direction(s) as prayed for in the Original Application and as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

DATE: 03.12.2022

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## **ANNEXURE-A**

### **Some Photos of Illegal Constructions in Nainital Town** **Area**









(Above) Pictures of the Large Scale Illegal Commercial Vehicle Parking on the Lakebed of Sukhatal in May-June 2019. The lake bed is now often used for such illegal parking.