

IN THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 518 OF 2022

IN THE MATTER OF:

Vivek Verma.

.....Applicant

Versus

State of Uttarakhand.

... Respondent

**ACTION TAKEN REPORT BY WAY OF AFFIDAVIT ON BEHALF
OF DISTRICT MAGISTRATE, NAINITAL, UTTARAKHAND IN
COMPLIANCE OF ORDER DATED 22.08.2023 PASSED BY THIS
HON'BLE TRIBUNAL IN THE ABOVEMENTIONED MATTER**

P A P E R - B O O K

I N D E X

<u>Srl</u>	<u>Particulars</u>	<u>Pages</u>
1.	Action Taken Report by way of Affidavit on behalf of District Magistrate, Nainital, Uttarakhand in compliance of order Dated: 22.08.2023 passed by this Hon'ble Tribunal in the abovementioned matter.	1 - 8
2.	<u>ANNEXURE-1</u> : A true copy of the order Dated: 22.08.2023 passed by this Hon'ble Tribunal.	9 - 11
3.	<u>ANNEXURE-2</u> : A true copy of the Meeting of Minutes Dated: 06.11.2023.	12 - 13



Filed by:

[RAHUL VERMA]
Additional Advocate General for State of Uttarakhand /

Respondent

137, Tower No.10, Supreme Enclave,

Mayur Vihar Phase-I, Delhi-110091

Mobile No. 9717706032

Email- advraahulverma9999@gmail.com

IN THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 518 OF 2022

IN THE MATTER OF:

Vivek Verma.Applicant

Versus

State of Uttarakhand. ... Respondent

ACTION TAKEN REPORT BY WAY OF AFFIDAVIT ON BEHALF
OF DISTRICT MAGISTRATE, NAINITAL, UTTARAKHAND IN
COMPLIANCE OF ORDER DATED: 22.08.2023 PASSED BY THIS
HON'BLE TRIBUNAL IN THE ABOVEMENTIONED MATTER

I, Vandana W/O Shri Kabir Singh aged about 33 years,
presently posted as District Magistrate, Nainital, District-Nainital,
Uttarakhand , do hereby solemnly affirm on oath and state as under:

1. That in my abovementioned official capacity, I am acquainted
with the facts and circumstances of the present matter, and I am
fully competent to file present Status Report by way of Affidavit
on behalf of District Magistrate, Nainital, Uttarakhand.

2. That the abovementioned matter was listed lastly on Dated:
22.08.2023 before this Hon'ble Tribunal and after hearing, this
Hon'ble Tribunal was pleased to pass a detailed order, the
relevant portion of the same is quoted below:-

S

TICKET
CANCELLED

NOTARIAL NOTARIAL



S.N- 175
27/11/2023

IDENTIFIED BY

"....."

"....."

2. The DFO, SDM and the Regional Officer attended the proceedings and no sufficient information has been given by the authorities concerned, while the action has not been taken against the violators of law for cutting the trees without any authority and while the penal action in addition to calculation and realization of environmental compensation has not been acted upon by the authorities concerned. The calculation of cost of trees by the DFO is too less and meagre and less than the cost of trees itself which may indirectly promote the cutting of the tree and to pay the penalty. The Regional Officer who is statutorily bound to act against the violators failed to exercise his duties sincerely, fairly and honestly and failed to control the illegal cutting of the trees and also failed to ensure the compliances of environmental rules by not taking any action for running of hotels without any Environmental Clearance and discharging their sewage water or untreated water into the lake or water body in violation of the Water (Prevention and Control of



Q

Pollution) Act, 1974. There are serious violations of environmental rules for which the authorities, statutorily bound to take action are responsible. Member Secretary, State PCB is directed to initiated disciplinary action against RO concerned for non-compliance of environment rules rather encouraging the violators.

3. Accordingly, we direct the Forest Department to take action for realization of cost of the trees not according to the value but according to the parameters to be punitive so that no one can dare to cut the tree and to initiate prosecution according to the rules. State PCB, District Magistrate and the Municipal Corporation are directed to take action against illegal cutting of trees and planting trees with proper species as narrated above and to ensure plantation atleast 10 times of the trees which were fallen in the hands of violators. Further action taken be filed by the authorities concerned before the Tribunal within three months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF. The action taken report shall include, preventing discharge of sewage into drains



4

leading to Naini lake, collection, processing and disposal of solid waste and status be furnished in quantifiable terms and removing and preventing encroachments on drains and other places causing traffic congestion.

.....
.....
....."

A copy of the order Dated: 22.08.2023 is annexed hereto and marked as ANNEXURE-1.

3. That in compliance of the abovementioned directions passed by this Hon'ble Tribunal, we have directed by Letter No. 452/12-ZAC/ 2023-24, Dated: 12-09-2023 to D.F.O. Nainital, Regional Officer, Uttarakhand Pollution Control Board, S.D.M, Nainital and Executive Officer, Nagar Palika Parishad, Nainital to take action accordingly the directions given by the Hon'ble N.G.T. and submit the Action Taken Report. After that the officials from the Forest Department, Uttarakhand Pollution Control Board and Municipal Committee held a meeting on Dated: 06.11.2023 and an action plan was prepared, and in continuation of the same three member's joint committee of concerned departments,



Q

inspected the site in question. The copy of the minutes of the meeting on Dated: 06.11.2023 is enclosed as ANNEXURE-2.

4. That during the inspection of the site, the joint committee found that 45 trees of different species were fell down in Nainital, out of 45 trees 17 poplar trees were cut down by proper permission Under U.P. Tree Protection Act, 1976 and only 28 trees were cut down illegally.
5. That in compliance of the directions passed by this Hon'ble Tribunal, a sum of Rs.2,50,000/- has been recovered for illegal felling of trees and Forest Department has already planted 350 trees in Narayan Nagar, Nagar Palika Range, Nainital which are more than 10 times of the trees illegally felled in different incident reported by three members joint committee in the joint inspection. That it is pertinent to mention herein that the offences under Uttar Pradesh Trees Protection Act areailable and compoundable. The Forest Department has already imposed heavy fine against the violaters.
6. In compliance of the order Dated: 22.08.2023 passed by the Hon'ble NGT, Regional Officer, UKPCB, Haldwani, District-Nainital reported that he had done physical verification of



9

Hotels/Homestays located in Nainital town. A total 258 hotels were inventoried. The status of hotels in tabular form is as given below :-

SI No.	Particulars	Nos.
1	2	3
1.	Hotels having valid CCA of the Board	140
2.	CCA application under process	Nil
3.	Hotels which are closed/non-operational	09
4.	Covered under Homestay which do not require CCA of the Board	40
5.	Hotels that have not applied for CCA to the board, but are presently operational.	69
Total number of Hotels/Homestay inventoried		258

We have directed the UKPCB to take action against the Hoteliers/Homestays, which are running without the consent of Pollution Control Board.

7. Executive engineer, Uttarakhand Jal Sansthan, Nainital stated that all hotels / homestays located in Nainital town are connected to sewer lines. The sewer of these hotels/homestays and houses passes through the main sewer trunk to the trickling plant located at Hanuman Garhi and thereafter sewer goes to a 5 MLD capacity sedimentation tank located at village Rusi for further treatment. Treated water analysis was conducted during the month of September, 2023 through a third party laboratory. The

5

analysis report shows BOB-55 mg/l. Treated water is disposed of on land. Further, the water supply of the Nainital town is made through 15 tube wells and 4 pumping stations. Direct withdrawal of water from Naini Lake is not done. No illegal withdrawal of water is done by hotels and other commercial establishments.

8. In view of the facts and circumstances as explained hereinabove sincere efforts are taken in compliance of the directions passed by this Hon'ble Tribunal, the same may kindly be accepted by this Hon'ble Tribunal and the deponent hereby undertakes to comply with every direction passed by this Hon'ble Tribunal.




DEPONENT

VERIFICATION

I, the deponent above named do hereby verify and say that the contents of my above Status report by way of affidavit are true and correct to my knowledge based on record, no part of it is false and nothing material has been concealed there from. The legal submissions are further true as per legal advice received and believed to be true and correct.



Verified by me at Haldwani, District-Nainital, Uttarakhand on this 27 day of November, 2023.

(Signature)

DEPONENT

Filed by:

[RAHUL VERMA]

Additional Advocate General for State of Uttarakhand / Respondent s

137, Tower No.10, Supreme Enclave,
Mayur Vihar Phase-I, Delhi-110091

Mobile No. 9717706032

Email- advraahulverma9999@gmail.com



Certified that Sri/Smt. Vandana W/o Shri Kabir Singh
the Deponent Identified by Rahul Verma Advocate
Sworned & Verified the contents of the
Affidavit at Haldwani
on Date 27/11/2023 at 09.1.0 PM

(Signature)
JITENDRA SINGH BORA
Advocate
Notary, Haldwani
Distt. Nainital (UK) India
27/11/2023

Item No. 06

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(BY HYBRID MODE)

Original Application No. 518/2022

Vivek Verma

Applicant

Versus

State of Uttarakhand

Respondent

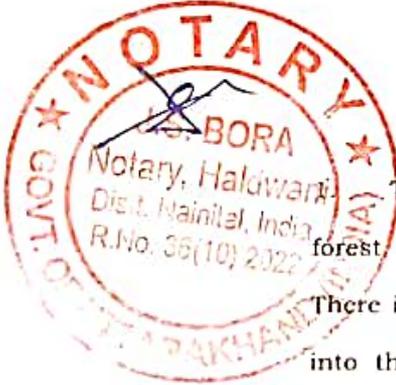
Date of hearing: 22.08.2023

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, CHAIRPERSON
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Akash Vashishtha, Adv. (Amicus Curiae)

Respondents: Mr. Rahul Verma, AAG for the State of Uttarakhand
Mr. Mukesh Verma, Adv. for UKPCB
Mr. Pramod Kumar, SDM, Nainital
Mr. Raj Kumar, SDFO, Nainital
Dr. D.K. Joshi, RO Haldwani, UKPCB

ORDER



The grievance in this application is unauthorized cutting of trees in forest area adjacent to Nainital city belonging to endangered species. There is sewage water and solid waste in the storm water drain flowing into the Naini Lake and outlets of houses are discharging domestic sewage directly into the storm water drain, reckless vertical hill cutting causing massive slope exposure and exposure of roots of trees, which become vulnerable to fall anytime. This practice is seen almost every year in the region causing damage to environment and landslides resulting due to exposure of roots in the process of vertical hill cutting and the entire patch of tree vegetation has dried up owing to constructions inside a forest area. There are more than 148 hotels running in the Nagar Palika Parishad, Nainital without any relevant authority from the State PCB and discharging their untreated water/sewage into the Naini Lake. The ill

felling of trees by hotel owners to expand the area are adversely affecting the environment and ecology of the area.

2. The DFO, SDM and the Regional Officer attended the proceedings and no sufficient information has been given by the authorities concerned, while the action has not been taken against the violators of law for cutting the trees without any authority and while the penal action in addition to calculation and realization of environmental compensation has not been acted upon by the authorities concerned. The calculation of cost of trees by the DFO is too less and meagre and less than the cost of trees itself which may indirectly promote the cutting of the tree and to pay the penalty. The Regional Officer who is statutorily bound to act against the violators failed to exercise his duties sincerely, fairly and honestly and failed to control the illegal cutting of the trees and also failed to ensure the compliances of environmental rules by not taking any action for running of hotels without any Environmental Clearance and discharging their sewage water or untreated water into the lake or water body in violation of the Water (Prevention and Control of Pollution) Act, 1974. There are serious violations of environmental rules for which the authorities, statutorily bound to take action are responsible. Member Secretary, State PCB is directed to initiated disciplinary action against RO concerned for non-compliance of environment rules rather encouraging the violators.

3. Accordingly, we direct the Forest Department to take action for realization of cost of the trees not according to the value but according to the parameters to be punitive so that no one can dare to cut the tree and to initiate prosecution according to the rules. State PCB, District Magistrate and the Municipal Corporation are directed to take action against illegal cutting of trees and planting trees with proper species as

narrated above and to ensure plantation atleast 10 times of the trees which were fallen in the hands of violators. Further action taken be filed by the authorities concerned before the Tribunal within three months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF. The action taken report shall include, preventing discharge of sewage into drains leading to Naini lake, collection, processing and disposal of solid waste and status be furnished in quantifiable terms and removing and preventing encroachments on drains and other places causing traffic congestion.

4. List the matter for further consideration on 28.11.2023.
5. The officers present today be even present with the action taken report on the date fixed.
6. A copy of this order be forwarded to State PCB, District Magistrate, Nainital and the Municipal Corporation, Nainital by e-mail for compliance.



Sheo Kumar Singh, CP

Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

August 22, 2023
Original Application No. 518/2022
DV

माननीय राष्ट्रीय हरित अधिकरण में योजित मूल आवेदन संख्या: 518 विवेक शर्मा बनाम उत्तराखण्ड राज्य में माननीय राष्ट्रीय हरित अधिकरण द्वारा दिनांक: 22.08.2023 को पारित आदेश के अनुपालन हेतु दिनांक: 06.11.2023 को आयोजित बैठक का कार्यवृत्त

उपस्थिति :-

1. क्षेत्रीय अधिकारी, उत्तराखण्ड प्रदूषण नियंत्रण बोर्ड, क्षेत्रीय कार्यालय, हल्द्वानी (नैनीताल)।
2. उप प्रभागीय वनाधिकारी, नैनीताल वन प्रभाग, नैनीताल।
3. अधिशासी अधिकारी नगर पालिका परिषद नैनीताल।

उप प्रभागीय वनाधिकारी, नैनीताल वन प्रभाग, नैनीताल द्वारा अवगत कराया गया कि माननीय राष्ट्रीय हरित अधिकरण में योजित मूल आवेदन संख्या: 518 विवेक शर्मा बनाम उत्तराखण्ड राज्य में माननीय राष्ट्रीय हरित अधिकरण द्वारा पारित आदेश दिनांक: 22-08-2023 के अनुपालन में 10 गुना वृक्ष लगा दिए गए हैं। अधोहस्ताक्षरी द्वारा वन विभाग द्वारा लगाये गये उपरोक्त वृक्षों/पौधों का स्थलीय निरीक्षण हेतु तिथि पृथक से निर्धारित की जाएगी।

वृक्षों का कटान न हो इस हेतु वन विभाग द्वारा बनाई गई योजना के सम्बन्ध में पृच्छा करने पर उप प्रभागीय वनाधिकारी, नैनीताल वन प्रभाग, नैनीताल द्वारा अवगत कराया गया कि उत्तर प्रदेश वृक्ष संरक्षण अधिनियम, 1976 के तहत निजी भूमि पर वृक्ष काटे जाने पर वन विभाग के द्वारा धारा-4/10 के अधीन कार्यवाही की जाती है। इस धारा के तहत किया गया अपराध जमानतीय तथा शमनीय है। जाँच अधिकारी के द्वारा यदि जाँच के दौरान किया गया अपराध गैर-व्यवसायिक पाया जाता है, तो उस दशा में शमन की कार्यवाही की जाती है तथा प्रकरण/अवेध पातन का कार्य बार-बार किए जाने अथवा व्यवसायिक होने पर सम्बन्धित धाराओं में मुकदमा पंजीकृत कर कार्यवाही की जाती है। उप प्रभागीय वनाधिकारी, नैनीताल वन प्रभाग, नैनीताल को निर्देशित किया गया कि उक्त आधार के अनुरूप कार्यवाही करते हुए कृत कार्यवाही से इस कार्यालय को अवगत कराना सुनिश्चित करेंगे।

(कार्यवाही-उप प्रभागीय वनाधिकारी, नैनीताल वन प्रभाग, नैनीताल)

बैठक के दौरान नैनीताल शहर में स्थित होटलों में एस.टी.पी. के सम्बन्ध में पृच्छा करने पर क्षेत्रीय अधिकारी, उत्तराखण्ड प्रदूषण नियंत्रण बोर्ड, क्षेत्रीय कार्यालय, हल्द्वानी (नैनीताल) एवम् अधिशासी अधिकारी, नगर पालिका परिषद, नैनीताल द्वारा कोई जानकारी उपलब्ध नहीं करायी गयी, जिसके क्रम में क्षेत्रीय अधिकारी, उत्तराखण्ड प्रदूषण नियंत्रण बोर्ड, क्षेत्रीय कार्यालय, हल्द्वानी (नैनीताल) एवम् अधिशासी अधिकारी, नगर पालिका परिषद, नैनीताल को निर्देशित किया गया कि वे जाँच करते हुए एस.टी.पी. रहित होटलों की सूची इस कार्यालय को उपलब्ध कराना सुनिश्चित करेंगे तथा यह भी अवगत करायेगे कि किन-किन होटलों/होम स्टे उत्तराखण्ड प्रदूषण नियंत्रण बोर्ड, क्षेत्रीय कार्यालय, हल्द्वानी (नैनीताल) की अनुमति के बिना संचालित किए जा रहे हैं। इसके अतिरिक्त सम्बन्धितों के विरुद्ध नियमानुसार आवश्यक कार्यवाही करते हुए कृत कार्यवाही से इस कार्यालय को अवगत कराना सुनिश्चित करेंगे।



क्रमश.....2/

2

वृक्षों के कटान के कारण प्रकृति पर पड़ने वाले विपरीत प्रभाव के क्रम में क्षेत्रीय अधिकारी, उत्तराखण्ड प्रदूषण नियंत्रण बोर्ड, क्षेत्रीय कार्यालय, हल्द्वानी (नैनीताल) द्वारा सम्बन्धित के विरुद्ध अपने स्तर से कार्यवाही करते हुए कृत कार्यवाही से इस कार्यालय को अवगत कराना सुनिश्चित करेंगे।

(कार्यवाही- क्षेत्रीय अधिकारी, उत्तराखण्ड प्रदूषण नियंत्रण बोर्ड, क्षेत्रीय कार्यालय, हल्द्वानी (नैनीताल) एवम् अधिशासी अधिकारी, नगर पालिका परिषद, नैनीताल)

अन्त में सम्बन्धितों से उपरोक्तानुसार बिन्दुओं पर तत्काल कार्यवाही की अपेक्षा करते हुए बैठक का समापन किया गया।


(प्रमोद कुमार),
उप जिलाधिकारी,
नैनीताल।

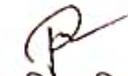
कार्यालय उप जिलाधिकारी, नैनीताल।

संख्या: 61 /आर.ए./2023

दिनांक: 07 नवम्बर, 2023

प्रतिलिपि :- निम्नांकित को उपरोक्तानुसार अनुपालनार्थ प्रेषित :-

1. क्षेत्रीय अधिकारी, उत्तराखण्ड प्रदूषण नियंत्रण बोर्ड, क्षेत्रीय कार्यालय, हल्द्वानी (नैनीताल)।
2. उप प्रभागीय वनाधिकारी, नैनीताल वन प्रभाग, नैनीताल।
3. अधिशासी अधिकारी नगर पालिका परिषद नैनीताल।


उप जिलाधिकारी,
नैनीताल।



4