

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH
CHAUHAN

AND

THE HON'BLE SRI JUSTICE ALOK KUMAR VERMA

WRIT PETITION (PIL) No. 68 OF 2018

7TH APRIL, 2021

Between:

In Re,

In the matter of, "Protection of Forest Area, Forest
Wealth and Wild Life due to devastation from the
extensive forest fires in the State of Uttarakhand."

...Petitioner

and

State of Uttarakhand and others. ...Respondents

Counsel for the petitioners: Mr. Dushyant Mainali,
learned proxy counsel
for Mr. Ankit Shah,
learned counsel for the
petitioner.

Counsel for the respondents: Mr. S.N. Babulkar,
learned Advocate
General with Mr. N.S.
Pundir, learned Deputy
Advocate General and
Mr. B.S. Parihar,
learned Standing
Counsel for the State of
Uttarakhand.
Mr. Virendra Kaparwan,
learned Standing

Counsel for the Union
of India / respondent
no. 1.

The Court made the following:

ORDER : (per Hon'ble The Chief Justice Sri Raghvendra Singh Chauhan)

In pursuance of the order dated 06.04.2021, Mr. Rajiv Bhartari, the Principal Chief Conservator of Forests, Department of Forest, is present before this Court through video-conference.

2. He informs this Court that annually from March till June, the State is prone to forest fires. So far, 52 incidents have occurred ranging from District Nainital to District Champawat to District Udham Singh Nagar. Between October, 2020 till March, 2021, there have been about 852 incidents of forest fires, which have adversely affected 1012 hectares of land.

3. According to him, there is a three-pronged strategy, which is utilized for dealing with forest fires: firstly, preventive, such as clearing fire lines; secondly, detection; and thirdly, control of the fire, once it begins to rage through the forest. In order to deal with the raging fire, the Department has fire-rakes, fire-beaters, and it uses a technique called "counter-fire".

4. However, according to him, the Forest Department has a large number of vacancies. The sanctioned strength of Forest Guards is 3650, out of which there is a vacancy of 2098. Thus, there is a vacancy of 65% of the staff. Similarly, there is 82% vacancies in the cadre of Assistant Conservators of Forest. Likewise, on the post of Rangers, the sanctioned strength is 308, and the working strength is 237.

5. According to Mr. Bhartari, the area of the State, which is covered by pine forest, is most prone to forest fire. For, firstly, nothing grows under a pine tree. Secondly, a pine tree sheds its needle thrice in a year, which tend to accumulate under the trees. Due to either human actions, or due to high temperature the fallen pine needles catch fire. Thereby, igniting forest-fires.

6. According to Mr. Bhartari, in case the forestfire goes out of control, the State tends to contact the National Disaster Response Force; the State also puts into action the State Disaster Response Force.

7. Taking example of Almora district, Mr. Bhartari submits that there are about seven crew stations, and each crew station consists of four to six personnel.

There are 190 fire-watchers; and in order to cover 600 sq. kilometers, two fire-watch towers have been constructed.

8. According to Mr. Bhartari, in 2016, the Forest Department had formulated a "Crisis Management Plan". Despite, the best efforts of the Forest Department to implement the same, due to shortage of funds and due to shortage of staff, the Forest Department is not in a position to implement the plan in *toto*. Lastly, Mr. Bhartari, submits that although presently, the forest fire raging in District of Nainital, Champawat, and Udham Singh Nagar is out of control, but the Department hopes to control the fire within a period of two weeks. But simultaneously, he submits that since most of the forest fires are ignited by people, the possibility of fresh forest fire incidents occurring either in the Kumaun area, or in the Garhwal area, cannot be ruled-out.

9. Mr. Dushyant Mainali, the learned proxy counsel for Mr. Ankit Shah, the learned counsel for the petitioner, submits that in Writ Petition (PIL) No. 54 of 2016, In the matter of the Protection of Forests, Environment, Ecology, Wild Life etc. from the Forest Fire vs. Union of India and others, by judgment dated

19.12.2016, this Court had issued a large number of guidelines. However, in SLP No. 8633 of 2017, by order dated 27.03.2017, the said guidelines have been stayed by the Hon'ble Supreme Court.

10. The learned counsel further submits that despite the stay granted by the Hon'ble Supreme Court against the said judgment, in the case of Rajiv Dutta vs. Union of India and others [Original Application No. 216 of 2016 (M.A. No. 397 of 2017)], the National Green Tribunal has dealt with the phenomena of forest fires in the State of Uttarakhand. In its judgment dated 03.08.2017, the learned Tribunal has also issued a large number of guidelines. Since the said judgment has not been stayed by the Hon'ble Supreme Court, the learned counsel submits that the guidelines, so issued by the learned Tribunal, necessarily must be complied with by the State. However, the State has singularly failed to comply with these guidelines. Therefore, he prays that this Court should direct the Forest Department and other competent authorities of the State to implement the directions issued by the learned Tribunal.

11. Mr. Akhil Kumar Shah, the learned counsel, further submits that while dealing with forest fires,

which rage through the mountains of the State, perhaps the State should also consider the possibility of creating artificial rain so as to douse the forest fires. Moreover, since the occurrence of forest fires is an annual feature, perhaps the State should also consider equipping the State Disaster Response Force with sufficient equipment, including aerial equipment for dealing with the forest fires.

12. It is, indeed, trite to state that forest fires have numerous adverse effects: firstly, on the green-coverage of the State; secondly, on the wildlife; thirdly, on the human population; fourthly, on the environment itself.

13. Admittedly, 67% of the land in the State is covered by forest. There are large forests of Pine Trees. Undoubtedly, forest fires are annual features which occur between March and June. Thus, it is imperative that the State should not just have a Crisis Management Plan, but most importantly should ensure that the plan is implemented in *toto*. Therefore, it is essential for the State to develop multi-pronged strategies to tackle this annual menace.

14. Therefore, this Court directs the State as under: -

(1) The State should ensure that sufficient fund is given to the Forest Department so that the vacancies can be filled up. Therefore, the State, especially the Forest Department, should ensure that sixty-five percent vacancies in the cadre of Forest Guard are eliminated, and all the vacancies are filled-up within a period of six months. Moreover, the eighty-two percent vacancies that exist in the cadre of Assistant Conservator of Forest should equally be filled-up as expeditiously as possible, preferably within a period of six months. Likewise, the vacancies existing in the cadre of Ranger should be filled-up as expeditiously as possible, preferably within a period of six months. Moreover, the Forest Department should have the necessary equipments and the physical infrastructure. For, until and unless sufficient manpower and physical infrastructure are not provided to the Forest Department, it will be extremely difficult, if not impossible, for the Forest Department, to carry out its functions.

(2) The State Government should also consider the possibility of equipping the State Disaster Response Force with all the necessary gadgets and equipment, which are necessary for fighting the forest fires. Therefore, the State should also deliberate whether it can equip the State Disaster Response Force with Helicopters and with other aerial equipment, which will permit the State Disaster Response Force to effectively deal with the forest fires. For, it is a common knowledge that once forest fires blaze out of control, it is easier to control the same from the air, than from the land.

(3) The State should also consider the possibility of creating artificial rain by cloud-seeding. Of-course, this will have to be balanced with the distinct possibility that too much rain may also lead to land-slides, a phenomena to which the State is prone to.

(4) Since in the case of **Rajiv Dutta** (supra), the learned Tribunal has already issued effective directions to the State, the State is directed to implement the directions as expeditiously as

possible, and preferably within a period of six months.

15. Mr. Rajiv Bhartari, the Principal Chief Conservator of Forests, Department of Forest, is directed to submit his report with regard to the implementation of the directions issued by this Court today. The said report shall be filed by him on or before 07.05.2021.

16. List this case on 12.05.2021.

RAGHVENDRA SINGH CHAUHAN, C.J.

ALOK KUMAR VERMA, J.

Dt: 7th April, 2021
Rathour