

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
	23.03.2026		<p>WPMB No. 1143 of 2025  <b>Gurcharan Singh</b> .....Petitioner  Vs. ....Respondents  <b>State of Uttarakhand &amp; others</b>  <u><b>Hon'ble Manoj Kumar Gupta, C.J.</b></u>  <u><b>Hon'ble Subhash Upadhyay, J.</b></u></p> <ol style="list-style-type: none"> <li>1. Ms. Bani Dikshit and Mr. Digvijay Singh Bisht, learned counsel for the petitioner.</li> <li>2. Mr. J.C. Pande, learned Standing Counsel for the State.</li> <li>3. Mr. Aditya Pratap Singh, learned counsel for respondent no.3.</li> <li>4. Mr. Aditya Singh and Mr. Girveer Chand, learned counsel for respondent no.4.</li> <li>5. Learned counsel for the petitioner has placed reliance on an answer given in response to a query under the Right to Information Act by Executive Engineer, Irrigation Division, Dehradun on 29.04.2025, which mentions that River Song is a perennial river from Kalusidh to Fatehpur Tanda.</li> <li>6. Relying on the said RTI information, the contention is that Village Sangtiyawal, Tehsil Doiwala, Dehradun, the site of the stone crusher, is merely 105 meters from the perennial river, although, as per the Stone Crusher Policy, the said distance cannot be less than 500 meters.</li> <li>7. On the other hand, Mr. Aditya Singh, learned counsel appearing for respondent no.4 has placed reliance on a letter dated 11.05.2022, by Executive Engineer, Irrigation Division, Dehradun, addressed to one Vinod Dobhal, where it is stated that during monsoon season, there is huge quantity of water in the river. During lean period, the water gets diverted to various canals originating from the said river. As a consequence, the water in the river remains insufficient, therefore, even release of water to canals is on roster basis.</li> </ol>

8. From the said observations, it has been concluded that River Song is non-perennial. Thus, there are two conflicting information from the Irrigation Department, Dehradun, that too, by the Executive Engineer.

9. The question for consideration is whether River Song is perennial or non-perennial, because if it is perennial river, admittedly, the stone crusher of the respondent is situated within forbidden distance.

10. Learned counsel for respondent no.4 has invited our attention towards the Government Memorandum dated 11.11.2021, wherein '*perennial*' and '*non-perennial rivers*' have been defined and according to the definitions thereunder, a perennial river is a river where the flow of water remains uninterrupted and continuous whereas, a non-perennial river is one which gets water only during rainy season.

11. The question for consideration is whether as a result of diversion of water of the river to different canals, it can be said that the river is non-perennial.

12. We require the Principal Secretary, Irrigation Department to examine the said aspect and after carrying out proper survey and examining other aspects, file his affidavit and clarify the stand of the Government in this behalf.

13. Learned Standing Counsel shall ensure communication of the order to the concerned Secretary within twenty-four hours.

14. List on 13.04.2026.

(Subhash Upadhyay, J.)  
23.03.2026

(Manoj Kumar Gupta, C.J.)  
23.03.2026

NISHANT