

IN THE HIGH COURT OF UTTARAKHAND

AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI VIPIN SANGHI

AND

HON'BLE SRI JUSTICE RAKESH THAPLIYAL

WRIT PETITION (PIL) NO. 22 OF 2018

23RD AUGUST, 2023

BETWEEN:

Ravi Shankar Joshi

.....Petitioner.

And

Union of India & others

....Respondents.

Counsel for the Petitioner : Mr. Rajeev Singh Bisht, learned counsel.

Counsel for the Respondent No.1 : Ms. Monika Pant, learned Standing Counsel.

Counsel for the Respondent Nos.2 to 6 : Mr. C.S. Rawat, learned Chief Standing Counsel assisted by Mr. Gajendra Tripathi, learned Standing Counsel.

The Court made the following:

JUDGMENT:(per Hon'ble The Chief Justice Sri Vipin Sanghi)

We have heard learned counsels and also examined the original record produced by the respondent- State in terms of our orders.

2. The petitioner has preferred this petition, statedly in public interest, to challenge the decision of the State to cancel the project to establishment of Inter-State Bus Terminal (*for short "ISBT"*) at Gaulapar, Haldwani, and to change its site to another place. The petitioner also seeks a direction to the State to carry on with the establishment of the ISBT at Gaulapar at the earlier sanctioned site and to get the same completed at the earliest in the interest of public at large.

3. First and foremost, we may observe that the reliefs, as sought by the petitioner, tantamount to a challenge to the policy of the State, which cannot be gone into by us even in public interest litigation, unless, a glaring case is made out of arbitrary and *malafide* conduct.

4. The respondent- State has filed a supplementary affidavit, which has been perused by us. The original record shows that on 11.10.2017, the office note was prepared for placing the agenda item before the Transport Minister for approval. The file also contains a Cabinet note which was prepared for consideration by the Cabinet of Ministers, which proposed the sanction of mobilization advance of Rs.7,60,00,000/- in the financial year 2017-18 in favour of the agency, and Rs.8,00,00,000/- was budgeted in the financial year 2017-18. The file also contains the decision of the Cabinet, which shows that on 27.12.2017, the Cabinet of Ministers decided to cancel the proposed setting up of the ISBT at Gaulapar, Haldwani. It was decided to find another appropriate location for setting up the ISBT.

5. The affidavit filed by the State discloses that the State had engaged the NCC Ltd., and made advance payment of Rs.7,60,00,000/-, which was secured by a Bank Guarantee of Rs.5,60,00,000/-. The stand of the State is that the NCC Ltd. breached its agreement with the State, and the State

Government has already encashed the Bank Guarantee of Rs.5,60,00,000/-. The State would also take steps to recover the advances made to the NCC Ltd.

6. Mr. Rawat states that notice for recovery was issued to the NCC Ltd. on 12.02.2022. He states that further steps to ensure recovery would be taken within the next two months.

7. Aforesaid being the position, we are not inclined to continue to entertain this petition.

8. As aforesaid, it is for the State to decide whether, or not to setup the ISBT, and to decide on its location. Since the State has decided to locate the ISBT at another location, for which, land has already been identified, the petitioner can have not possible grievance in that regard.

9. The writ petition is, accordingly, dismissed.

10. Pending application, if any, also stands disposed of.

(VIPIN SANGHI, C.J.)

(RAKESH THAPLIYAL, J.)

Dated: 23rd August, 2023

NISHANT