

HIGH COURT OF UTTARAKHAND AT NAINITAL

Hon’ble Chief Justice Ms. Ritu Bahri
Hon’ble Justice Sri Rakesh Thapliyal

19th March, 2024

Writ Petition (PIL) No. 40 of 2024

Rajendra Singh Mehra Petitioner
Vs.

State of Uttarakhand & Ors. Respondent

Counsel for the Petitioner : Mr. Harsh Vardhan Dhanik.
Counsel for the respondent : Mr. A.P. Singh, learned Addl. A.G. for the State.
Mr. Ashish Joshi, Advocate for respondent nos. 3 and 4.

Upon hearing the learned Counsel, the Court made the following Judgment:
(Per: Sri Rakesh Thapliyal,J.)

1. The present public interest litigation has been preferred by the petitioner with the following relief:-

“To issue a writ, order or direction in the nature of mandamus directing the respondents to stop/remove the encroachment in Neelyam Colony, Haldwani (The road going from Golmall to Sideshwar Vihar construction work has been done by widening the road, the width being 30 feet, and from Sideshwar Vihar towards Camp Office of Hemant Diwedi and further from that point is about 350 meters , from the 350 meters about 50 meters of encroachment has been removed in road leading from Hemant Diwedi’s camp office towards gool by making it 30 feet wide, but the remaining road has been left and it is 20 feet wide only).”

2. The petitioner, who is the resident of Neelyam Colony, Haldwani preferred this petition in the interest of the residents of the colony for the purposes of removing the encroachment in reference to which various complaints were made on the Chief Minister online portal. Thereafter, the Municipal Magistrate, Haldwani instructed the Tehsildar to inquire about the situation, and,

pursuant thereto, a joint inspection was carried out by the Naib Tehsildar, Haldwani, Assistant Engineer Nagar Nigam, Haldwani, Kathgodam and Assistant Engineer, Public Works Department on 28.10.2023. Thereafter, a public notice was given by the Executive Engineer, Public Works Department, Haldwani on 18.11.2023 for removal of the encroachment. Despite the public notice, no further action has been taken then the petitioner submitted a written complaint to the Commissioner, Kumaon Division, Nainital on 02.12.2023 but no response has been given on the said complaint. On 16.01.2024, the Joint Secretary, District Development, Haldwani, wrote to the Tehsildar for taking appropriate action.

3. It is submitted by the learned counsel for the petitioner that though petitioner also submitted representation to the City Magistrate, Haldwani on 02.12.2023, copy of which also addressed to the Executive Engineer, Haldwani for taking appropriate action but no action has been taken.

4. Mr. Ashish Joshi, learned counsel appearing from the Municipal Corporation submits that the petitioner has already submitted a representation to the City Magistrate, Haldwani on 02.12.2023, therefore, the City Magistrate, Haldwani be directed to look into the said complaint and take appropriate action.

5. Considering the fact that the petitioner has already submitted the representation before the City Magistrate, Haldwani on 02.12.2023, the City Magistrate, Haldwani is directed to take decision on the said representation dated 02.12.2023, Annexure-5 to the writ petition, within a

period of one month from the date of production of certified copy of this order.

6. With the aforesaid direction, the public interest litigation is finally disposed of.

(Ritu Bahri, C.J.)

(Rakesh Thapliyal, J.)