



HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (PIL) No. 163 of 2025

12 August, 2026

Jamir Ahamad & Others

--Petitioners

Versus

State of Uttarakhand & Others

--Respondents

Presence:-

Mr. Aditya and Ms. Pralika Chakraborty, Advocates holding brief of Mr. B.M. Pingal, learned counsel for the petitioners
Mr. B.S. Parihar, learned Additional C.S.C. for the State.
Mr. D.S. Patni, learned Senior Counsel assisted by Mr. T.S. Phartiyal and Mr. Himanshu Yadav, Advocate holding brief of Mr. Bhupendra Bisht, learned counsel for Nagar Palika Parishad/respondent no.3

JUDGMENT : (per Mr. Manoj Kumar Gupta, C. J.)

1. The present writ petition is by the street vendors who had been vending from a site which is a pathway between the VIP car parking and Gurudwara Sahib near Flats at Nainital.
2. The case of the petitioners is that in WPPIL No.151 of 2015 “Ms. Anjali Bhargava vs. State of Uttarakhand and others”, this Court while examining certain issues of public importance relating to District Nainital had issued directions vide order dated 04.09.2018 that the street vendors, who had been vending from the aforesaid site, shall not be removed. He submits that in violation of the same, the Nagar Palika Parishad, Nainital is not permitting the petitioners to vend from the said place.



3. In order to appreciate the contention of the petitioners, it would be useful to extract the relevant part of the order of this Court dated 04.09.2018 passed in aforesaid PIL:-

“6. During the course of hearing, Mr. Bhupesh Kandpal, Advocate submitted that poorest of poor people used to sell their products on the street between V.I.P. car parking and Gurudwara Sahib. However, they have been removed by the authorities. Mr. Bhupesh Kandpal, Advocate has also drawn the attention of this Court to the Street Vendors (Protection of Livelihood and Regulation of Street Vendors) Act 2014. According to this Act, it is mandatory for the Municipal Council to frame the policy to relocate the vendors from their existing place and till then, to permit them to use the allotted space.

7. Their Lordships of Hon’ble Supreme Court has held in Olga Tellis & ors. Vs. Bombay Municipal Corporation and Ors, reported in 1986 AIR 180 have held that the right to life includes right to livelihood. Deprivation of right to livelihood except according to just and fair procedure by law can be challenged being violative of Article 21. Their Lordships have held as under: -

“33. Article 39(a) of the Constitution, which is a Directive Principle of State Policy, provides that the State shall, in particular, direct its policy towards securing that the citizens, men and women equally, have the right to an adequate means of livelihood. Article 41, which is another Directive Principle, provides, inter alia, that the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work in cases of unemployment and of undeserved want. Article 37 provides that the Directive Principles, though not enforceable by any court, are nevertheless fundamental in the governance of the country. The principles contained in Articles 39(a) and 41 must be regarded as equally fundamental in the understanding and interpretation of the meaning and content of fundamental rights. If there is an obligation upon the State to secure to the citizens an adequate means of livelihood and the right to work, it



would be sheer pedantry to exclude the right to livelihood from the content of the right to life. The State may not, by affirmative action, be compellable to provide adequate means of livelihood or work to the citizens. But, any person, who is deprived of his right to livelihood except according to just and fair procedure established by law, can challenge the deprivation as offending the right to life conferred by Article 21."

8. Accordingly, in the larger public interest and to safeguard the socio-economic rights of the poorest of poor, we permit the street vendors to display their merchandise/wares between 5-8 P.M. in Summers (15th March to 15th September) and 4-6 P.M. in Winters (16th September to 14th March), only on one side of the pathway between the V.I.P. car parking to Gurudwara Sahib restricting the area to 4 feet X 6 feet.

9. *It is made absolutely clear that the vendors shall maintain absolute hygiene and cleanliness on the areas allotted to them. The list of all these vendors shall be prepared and the space shall be allotted only to the already registered vendors. The permission shall be cancelled immediately, if the terms and conditions of allotment are not adhered to. It shall be the duty of the Executing Officer to ascertain the antecedents of all the vendors, as an interim measure."*

4. A perusal of the order reveals that the submission made on behalf of the street vendors was that they were being illegally removed from the aforesaid site i.e. between the VIP car parking and Gurudwara Sahib in violation of the provisions of the Act without framing any policy for their relocation. The Court, appreciating the said submission, had therefore issued the aforesaid directions.

5. According to Nagar Palika Parishad, Nainital (respondent no.3), so far it had duly complied with the



aforesaid directions, but now with passage of time, the position has undergone a considerable change. It is alleged that on account of acute shortage of space, the presence of street vendors at the site was causing hindrance in the implementation of the Manaskhand Mandir Mala Mission, a project meant for beautification and improvement of the adjoining Naina Devi Temple. Consequently, the District Magistrate had directed the Nagar Palika Parishad, Nainital to provide alternative space to the street vendors. In pursuance of the said direction, the street vendors were allowed to display their merchandise/wares in the adjoining Pant Park.

6. On 01.09.2025, a Coordinate Bench passed the following order:-

"Dr. Kartikey Hari Gupta, Mr. Rafat Munir Ali and Ms. Irum Zeba, learned counsel for the petitioners.

2. *Mr. C.S. Rawat, learned Chief Standing Counsel and Mr. B.S. Parihar, learned Additional Chief Standing Counsel for the State.*

3. *Mr. D.S. Patni, learned Senior Counsel assisted by Mr. Bhupendra Singh Bisht, learned counsel for respondent no.3- Nagar Palika Parishad, Nainital.*

4. *Heard the learned counsel for the petitioners, learned Chief Standing Counsel for the State and learned Senior Counsel appearing for respondent no.3.*

5. *We have perused the photographs leading to the space opposite to the New Bhotia Market. It appears that stalls can be fabricated and installed there, which would in our, prima facie, opinion not cause much hindrance, as the passage opposite to New Bhotia Market appears to be about 12-15 feet in width and is primarily used by the pedestrians.*



6. *In that view, the Nagar Palika Parishad and the official respondents may examine the idea of fabricating stalls of size of 4X8 or so and install it between the two pillars of the boundary wall. Such an arrangement would prevent encroachment on the ground space or allottees trying to expand the size of the area under their control, and the Nagar Palika may also examine the issue of granting licenses and bringing the street vendors under the direct control of Nagar Palika Parishad and pull them out of the clutches of the middlemen and brokers.*

7. *List this case along with Writ Petition (PIL) No.216 of 2021, on 08.09.2025.”*

7. In compliance of the said order, Nagar Palika Parishad, Nainital is stated to have undertaken the exercise of examining the feasibility of installing fabricated stalls of size 4x8 between two pillars of the boundary wall by conducting joint survey. In the said survey conducted on 09.10.2025, it has emerged that the final/ending portion or stretch of the concerned area (i.e. Children's park to Gurudwara Sahib) is extremely narrow, so much so, that as of present the said pathway is barely sufficient for pedestrian movement, devotees and emergency services. As such, setting up stalls in the said area would result in severe congestion, leading to chaos and security concerns. It is stated that the Nagar Palika Parishad therefore undertook exercise for identifying alternative vending zones and accordingly the following measures were stated to have been undertaken:-



- a) Lakdi Taal area situated behind Mallital Police Station has been identified and earmarked as vending zone by the Town Vending Committee Nainital.
 - b) The Rural Work Department (RWD) has prepared a DPR of Rupees 407.44 Lacs and the same has been sent to the Directorate, Urban Development, Dehradun.
 - c) The abovesaid DPR has been accorded sanction at government level.
 - d) As per the conditions imposed under the Town Vending Act and rules framed thereunder sufficient arrangement for Public Toilet and Parking Space have been made.
 - e) The recommendation made by the District Magistrate, Nainital has also been sent to the State Government.
 - f) As of present, budget for the said work has been sanctioned and it is expected that the same will be released in near future. The work for developing necessary infrastructure in the earmarked permanent vending zone shall commence as soon the funds are received from the State Government.
8. It has also been stated that the site in question has been declared as a non-vending zone by the Governor. It is



further stated that in order to implement the Manaskhand Mandir Mala Mission, 14 shopkeepers who had set up shops in the area in question have been relocated and shifted to an area belonging to Jal Sansthan, Nainital. After filing of the said affidavit, the matter was taken up by this Court on 10.02.2026 and on the said date, learned counsel appearing on behalf of Nagar Palika Parishad, Nainital stated that the Nagar Palika Parishad had decided to construct a vending zone in Lakdi Taal. It was further stated that the Nagar Palika Parishad had forwarded the Scheme through Collector to the State Government and that the State Government had also sanctioned funds for the same. Thereafter, on the next date i.e. 15.07.2026, it was stated before us that Nagar Palika had identified PWD as Executing Agency for executing the project and as soon as PWD gives its consent to execute the project further action will be taken in the matter. Accordingly, on that date, the matter was adjourned to ascertain the stand of PWD.

9. On the matter being taken up today, learned Senior Counsel appearing for Nagar Palika Parishad, Nainital stated before the Court that the PWD has been appointed as Executing Agency and the amount sanctioned by the State Government for the project (₹ 1,62,97,600.00) has been



transferred to PWD for executing the project. A copy of the letter issued from the Office of Executive Officer, Nagar Palika Parishad, Nainital dated 03.08.2026 to Executive Engineer, Provisional Division, PWD, Nainital, Uttarakhand intimating him of transfer of fund, has been placed before us.

10. Thus, we find that the Nagar Palika Parishad and the State Government have taken concrete measures for relocating the street vendors and not only alternative vending zone has been identified but even funds have been sanctioned and released for executing the Project.

11. In view of the aforesaid fact, we are of the considered opinion that the grievance of the petitioners stands duly redressed. Consequently, the matter is not required to be examined any further in the present public interest litigation. The proceedings are, accordingly, closed.

(MANOJ KUMAR GUPTA, C. J.)

(SUBHASH UPADHYAY, J.)

Dated: 12.08.2026

Rajni