2026:UHC:9731-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE THE ACTING CHIEF JUSTICE SRI MANOJ KUMAR TIWARI
AND
HON'BLE SRI JUSTICE SUBHASH UPADHYAY

Writ Petition (M/B) No. 55 of 2026

28 October, 2026

Sunil Kumar --Petitioner

Versus

State of Uttarakhand and others --Respondents

Counsel for the petitioner :	Mr. Rajendra Dobhal, learned Senior Counsel, assisted by Mr. Parikshit Saini, learned counsel.
Counsel for the Respondent nos. 1:	Mr. S.N. Babulkar, learned Advocate General, Mr. Amrendra Pratap Singh and Mr. Ganesh Kandpal, learned Additional Advocate General, Mr. Puran Singh Bisht, learned Chief Standing Counsel, Mr. B.S. Parihar, learned Additional Chief Standing Counsel, Mr. Gajendra Tripathi, learned Standing Counsel and Mr. Akshit Gururani, learned Brief Holder for the State of Uttarakhand.
Counsel for respondent nos. 2 & 3:	Mr. Lalit Miglani and Mr. Sandeep Kohari, learned counsel.

The Court made the following:

JUDGMENT: **(per Hon'ble The Acting Chief Justice Sri Manoj Kumar Tiwari)**

1. Petitioner is an elected corporator (Ward Member) in Municipal Corporation, Haridwar. By means of this writ petition, he has sought the following reliefs:-

"i) To issue a writ, Order, or direction in the nature of certiorari quashing the impugned letters dated 18.12.2025 and 20.12.2025 (Annexure No. 1) to this Writ petition.

ii) To issue a writ, order, or direction in the nature of mandamus directing the respondents not to proceed any further in respect of the tender process pertaining to the operation and maintenance of Maa Mansadevi Ropeway at Haridwar."

2. According to petitioner, a ropeway was constructed in Public Private Partnership Model for connecting Maa Mansa Devi Temple, which is situate on top of a hill, to Haridwar town and M/s Usha Breco Ltd. was given lease to operate and maintain the said ropeway for a period of 30 years by concession agreement dated 15.05.1974.

3. It is further stated that after expiry of term of the lease, M/s Usha Breco Ltd. continued to operate the ropeway without any formal tender process and this Court in a Public Interest Litigation directed that formal tender process should be initiated for operation and maintenance of the ropeway and further that term of the contract cannot be extended without inviting offer from other interested persons.

4. It is stated that a Request for Proposal (RFP) was invited by Municipal Corporation, Haridwar for shortlisting of companies, for maintaining and operating the ropeway in the year 2024 and thereafter again in the year 2025.

5. Petitioner has challenged letter dated 18.12.2025, issued by Municipal Commissioner, Haridwar to Secretary, Urban Development Department, in which it is mentioned that approximately 20 lakh pilgrims use Mansa Devi Ropeway at Haridwar annually, and the concessionaire charges a fare of Rs. 199/- per person, thus a total annual revenue of Rs. 39,80,00,000/- (Rupees Thirty Nine Crore Eighty Lakh Only) is generated; Mansa Devi Ropeway is operational for the past 40 years and since the work of operation and

maintenance of ropeway is of specialised nature and human safety is paramount, therefore it would be appropriate if tender conditions (RFP) for operation and maintenance of the ropeway are prepared by Uttarakhand Public Private Partnership (PPP) Cell, only after examining technical aspects.

6. Another letter which is impugned was issued by Municipal Commissioner on 20.12.2025 (Annexure-1), whereby Secretary, Urban Development Department was informed that Board of Municipal Corporation, Haridwar has passed a resolution that companies which have experience of operating minimum two ropeways, including minimum 10 years experience of operating similar technology ropeway, alone should be allowed to participate in the bidding process. Municipal Commissioner mentioned in that letter that the resolution passed by the Board may result in eliminating competition, which may affect the financial interest of the Municipal Corporation, and Secretary, Urban Development, was requested to examine the resolution passed by the Board and have the conditions of the RFP modulated keeping in mind the points mentioned in the Committee's report.

7. Learned counsel for the respondents, however, submit that it is a proxy litigation at the behest of M/s Usha Breco Ltd. It is contended that M/s Usha Breco Ltd. earlier filed Writ Petition (M/B) No. 1142 of 2025 seeking the following reliefs:-

> *"i) To issue a writ, Order, or direction in the nature of certiorari quashing the impugned letters dated 18.12.2025*

(Annexure No. 1) and 20.12.2025 (Annexure No. 2), which are arbitrary, illegal and in gross violation of Article 14 of the Constitution of India;

ii) To issue a writ, order, or direction in the nature of mandamus directing the respondent No.4 not to proceed any further in respect of the tender process pertains to the operation and maintenance of Maa Mansadevi Ropeway.

iii) To issue a writ, Order or direction in the nature of mandamus directing a high level enquiry/investigation to be initiated to inquire the "unavoidable circumstances" in which the tender dated 08.09.2025 was cancelled and further the facts and circumstances leading to handing over of RFP formulation by Respondent No. 2/3 to respondent No.4 and to further pass orders for time bound inquiry/investigation in the matter."

8. Learned counsel for respondents contend that since M/s Usha Breco Ltd. was unable to get interim relief in Writ Petition (M/B) No. 1142 of 2025, therefore, instant writ petition was filed through a corporator seeking identical reliefs. It is thus contended that this amounts to abuse of process of law and a Corporator in the Municipal Corporation has no business to challenge the letters whereby Municipal Commissioner requested the State Government to modulate the request for proposal having due regard to human safety as well as financial interest of the Municipal Corporation.

9. Learned counsel for petitioner, however, submits that the letters issued by Municipal Corporation are contrary to the Public Private Partnership (PPP) Policy, as revised in 2019. We, however, do not find any substance in the said contention. Clause 4.1.1 of the

said policy merely provides that administrative department, upon completing Stage 1 activities mentioned in Section 2 of the policy, will send the proposal to PPP Cell for initial comments and discussion, and based on the discussion, a preliminary project report will be drafted.

10. In his letter dated 18.12.2025, Municipal Commissioner requested the State Government to have the tender conditions (RFP) for operation and maintenance of Mansa Devi ropeway formulated by Uttarakhand Public Private Partnership (PPP) Cell, after examining technical aspects. The letter therefore does not in any manner impinge upon the PPP policy of the State.

11. Learned counsel for the petitioner then submits that the letters issued by Municipal Commissioner are in teeth of the resolution passed by Municipal Board on 31.07.2025. He submits that the Board had resolved that (i) companies having experience of operating minimum two ropeways, including experience of 10 years in operating a ropeway of same technology alone would be entitled to participate in the tender process, (ii) companies, which do not have experience of operating similar ropeways should not be permitted to participate in the tender process and (iii) the ropeway should be technically examined by experts from IIT, Roorkee at regular intervals. Thus, he submits that the decisions taken by the Board of Municipal Corporation were diluted by the Municipal Commissioner by issuing impugned letters.

12. Per contra, learned State counsel submits that eligibility conditions were tailor made for M/s Usha Breco Limited (the existing operator) in the Board resolution dated 31.07.2025, as it was operating Mansa Devi Ropeway for last more than 40 years and the Municipal Commissioner rightly apprised the State Government that conditions mentioned in board resolution may adversely affect the revenue interest of the Municipal Corporation and the final decision in the matter has to be taken by the State Government.

13. We find substance in the contention raised made by learned State counsel.

14. The decision taken by the Board at Agenda Item No. 77 (1) has the effect of eliminating competition and such condition, if enforced, would create a monopoly in favour of the existing operator, as he is operating the ropeway for the last more than four decades.

15. Ropeway systems use different technological variables. There may be differences in supporting infrastructure, number of cables used, type of grip mechanism and the operational direction of movement. Thus the existing operator will have an edge over other persons, due to his long experience of operating the same ropeway, but that in itself is not sufficient to create monopoly in his favour.

16. Uttarakhand Legislature has enacted Uttarakhand Ropeways Act, 2014 (Act No. 02 of 2015). It is a comprehensive legislation dealing with various aspects, including inspection, safety and determination of tariff.

17. We find some substance in the contention raised by learned State Counsel that board resolution dated 31.07.2025 was passed for extraneous reasons. Since the field is covered by a State legislation, therefore whether Municipal Corporation had the authority to pass such resolution is, also debatable. Therefore, challenge to the letters issued by Municipal Commissioner on the touchstone of said board resolution deserves to be rejected.

18. The objection raised by respondents regarding *locus standi of the petitioner* to challenge the interdepartmental communications, issued by Municipal Commissioner to the State Government cannot be brushed aside lightly. There is nothing objectionable in the impugned letters, which would have given rise to a cause of action for maintaining this writ petition. For challenging an order, petitioner has to show some illegality therein, however learned counsel for petitioner failed to demonstrate that there is any illegality in the impugned letters.

19. Learned counsel for the respondents are, therefore, right in submitting that this is a proxy litigation filed at the behest of M/s Usha Breco Ltd. only for obtaining interim order, to stall the tender process for ensuring that existing operator (M/s Usha Breco Ltd.) operates the ropeway to Maa Mansa Devi Temple unhindered.

20. As we do not find any illegality or infirmity in the impugned communications, therefore, there is hardly any scope for interference in the matter.

21. It is not in dispute that Municipal Corporation manages the land and other property of the State, however ownership over such property vests in the State. The ropeway in question is therefore owned by the State and it can utilize the same in the interest of the State and its people.

22. Mr. Jitendra Chaudhary, learned Senior Counsel appearing for the rival bidder (M/s Damodar Ropeways and Infra Ltd.) submits that his client is ready to offer Rs. 20 crores annually for operation and maintenance of Maa Mansa Devi Ropeway. The State Government may consider appropriately fixing reserve price, while formulating conditions of request for proposal/notice inviting tender.

23. Since the field is covered by the Uttarakhand Ropeways Act, 2014, therefore, we dispose of the writ petition with a direction to the State Government to invoke its powers under Uttarakhand Ropeways Act, 2014 for ensuring safety of the people and also for safeguarding the revenue interest of the State. Appropriate decision shall be taken by the State Government within three months from today.

MANOJ KUMAR TIWARI, A.C.J.

SUBHASH UPADHYAY, J.

Dt: 28.10.2026
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