

In Reference Vs. Union of India

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Court : Madhya Pradesh

Decided On : Jun-24-2013

Appellant : In Reference

Respondent : Union of India

Judgement :

W.P. No.10931/2013 24.06.2013 Shri R.D.Jain, learned Advocate General for the respondent/State. Shri R.S.Siddiqui, learned Assistant Solicitor General for the Union of India. Looking to the grave situation at Uttarakhand where a severe disaster has occurred on 16.6.2013 and thousands of people have lost their lives and thousands have affected but no basic amenities like food, drinking water, medical aid etc. have been provided to the persons who are affected in the disaster, this matter has been taken up as PIL. As per the report, the dead bodies are not disposed of properly, ladies are facing atrocities, persons are stuck there and unable to contact with anybody, who can extend them help or to send them back to their home. Shri R.D. Jain, learned Advocate General submitted that the State Government has taken steps to provide every type of help to the disaster affected persons. One Hon'ble Minister Shri L. K. Sharma has been sent to Haridwar to monitor all the arrangements. Hundred fifty Officers of the State Government have been deployed with the powers to provide help to the disaster affected persons. It is also submitted that the State Government has taken all types of steps so that the affected persons could safely be returned back home. On being asked whether any effort has been made by the State Government to

trace out how many persons belonging to the State of Madhya Pradesh had gone to Uttarakhand and how many persons have suffered in this calamity, it is intimated that some efforts have been made by the State Government, but learned Advocate General is unable to state about the the result of the efforts. During the course of hearing, Shri Tapan Trivedi, Advocate Court submitted that 4-5 days back he was at Pithoragarh where he had seen that the disaster affected persons are unable to contact any W.P. No.10931/2013 person and no proper help and facilities like food, drinking water and medicines etc. have been given to them. Learned Advocate General submitted that in this regard efforts have already been made by the State Government and Officers of the State Government have been deployed there and they are regularly contacting the affected persons. Some newspapers have also published in this regard. Hon'ble the Chief Minister and Chief Secretary of the State are also monitoring the situation. Shri R.S.Siddiqui, learned Assistant Solicitor General of Union of India submitted that the Supreme Court have taken cognizance in the matter and have issued directions in this regard on 20.6.2013. He has placed the same before us. On being asked about the Disaster Management Committee which has been constituted by the Central Government with adequate funds that what steps were taken by the said committee, Shri Siddiqui is unable to give satisfactory answer. Nothing has been published in the newspaper in this regard. It is also enquired from him that till the Military personnel were deployed in the field and why no steps were taken by the Disaster Management Committee to rescue the person, he was unable to satisfy us. Shri R.D. Jain, learned Advocate General submitted that similar matter has been filed at Gwalior Bench in which certain directions have been issued. It is submitted that the State Government is going to file reply in the aforesaid matter today. The Apex Court on 20.6.2013 have issued the following directions: Taken on board. Defects pointed out in the office report are waived of. Respondent No.4 will be represented by the Chief Secretary, State of Uttarakhand. Heard learned counsel for the petitioner, the learned Additional Solicitor General appearing for respondent Nos.1, 2 and 3 and the Standing Counsel for the State of Uttarkhand for respondent Nos.4 and 5. Since the respondents have already W.P. No.10931/2013 entered appearance through their respective counsel, no formal notices be issued and notices be treated as served on the respondents. The reliefs

claimed in this writ petition are confined to people stranded in and around Gangotri, but considering the fact that various other areas in Uttarakhand have been as badly affected by the floods, we expand the scope of this writ petition so as to cover all affected areas of the State of Uttarakhand. We direct as an interim measure that for all affected persons including those who have been stranded, immediate relief will continue to be provided by respondent Nos.4 and the District Magistrates of all affected districts by giving them food, medicine, drinking water and other essentials including fuel wherever necessary. We also direct that depending upon the availability of helicopters with the Government of India as well as the State of Uttarakhand, sufficient number of helicopters will be deployed for air5 lifting the stranded persons to safer places. We make it clear that no discrimination whatsoever will be made by the respondents while providing relief in all respects to the affected/stranded persons. It will be, however, open for the authorities to provide immediate relief to areas which require immediate attention. Respondent Nos.1 and 3 will provide all required resources to respondent No.4 and to the District Magistrates of the affected districts for grant of such immediate relief. This matter be again listed on Tuesday, the 25th June, 2013 as first item on which date a report of the relief work already done and which needs to be done further will be submitted by respondent No.4.

. The Division Bench of High Court of Madhya Pradesh, Gwalior Bench have also entertained a public interest litigation in which following directions have been issued: Shri Suresh Agrawal & Shri Ashish Saraswat, Advocates for the petitioner. Shri Nitin Agrawal, Advocate on the authority of learned Assistant Solicitor General, Shri Ankur Mody who is not present. W.P. No.10931/2013 Shri MPS Raghuvanshi, Additional Advocate General and Shri Vivek Khedkar, Dy. Advocate General for the respondent Nos. 2 to 4/State. A very genuine and burning cause has been raised by the petitioner, who is a member of High Court Bar Association at Gwalior and also the citizen of country and belongs to Gwalior. By filing this pro bono publico petition to provide sufficient food, water, medicines, fuel and essential amenities to the citizens of this Country who are fighting for life and death in different places in the entire State of Uttarakhand. An application to hear this petition on Sunday i.e. today (23/6/2013) was filed yesterday (22/06/2013). The principal Registrar of this Bench, immediately communicated about the filing

of this petition today to the main Registry at Jabalpur for taking necessary order of Hon. The Acting Chief Justice and who immediately took action and directed the Registry of this Bench to list the matter today (23/6/2013). In this manner, this special Bench has been constituted to hear this petition on Sunday. We have heard Shri Suresh Agrawal, Shri Ashish Saraswat, Shri J.P. Mishra (President of High Court Bar Association, Gwalior), Shri Jitendra Sharma (Secretary, High Court Bar Association, Gwalior), Shri K.L. Tiwari, Shri Purushottam Rai, Advocates at length. This petition has been filed praying to press the following reliefs:- 1. That, the respondents may kindly be directed to take immediate steps for protecting the life of citizen of Madhya Pradesh.

2. That, the respondents may kindly be directed to shift citizen of Madhya Pradesh from the Uttaranchal State to safe spots immediately.

3. That, the respondents authorities be further directed to provide food, medicine, water and other essential amenities with immediate effect.

4. That, any other relief which this Hon'ble Court found be given in the facts and circumstances of the case.

5. Cost of the petition be awarded.

. Although in the writ petition, the petitioner has confined the relief only against the State of M.P. But we think it appropriate that since the W.P. No.10931/2013 citizens from the entire country are fighting with life and death and are struggling in different parts of the State of Uttarakhand, therefore, by exercising our suo motu powers, we hereby direct to issue notices by way of FAX as well as e-mail to all the Chief Secretaries of States as well as Union Territories. The Central Government/Union of India has already been arrayed as respondent No.1. Similarly, by exercising suo motu powers, we issue notices to National Disaster Management Authority through Secretary, Government of India. Shri Raghuvanshi, learned Additional Advocate General shall also put his endeavours to send the notices to all Chief Secretaries of all the States through FAX and E-mail on behalf of State of M.P.. We also direct to issue notice by Fax and E-mail to the Union of India through General manager of all the 9 zones of the Railways.

Since we are taking suo motu action against all these States as well as authorities etc., the Principal Registrar is hereby directed to implead them as party in the memorandum of cause title of petition. It is hereby made clear that looking to the facts and circumstances, no process fee shall be paid by⁶ the petitioner since by exercising suo motu powers we have directed to issue notices to aforementioned all the parties. The natural calamity had occurred in the State of Uttarakhand and more than 70 thousands persons are struggling to survive and are fighting with life and death at different places at the entire State of Uttarakhand. They are required to be shifted at their respective places to get rid of this disaster and natural calamity. Similarly, it is the duty of the Union as well as all the States of this Country to provide necessary food, water, medicines, fuel, transportation and all other essential amenities till the citizens are brought to their destination. It has been informed by learned counsel for the parties that till today only few persons have been rescued and brought to their respective places, and this has been informed by learned counsel for the parties on the basis of news channels and print media, therefore, according to them, large number of helicopters are required to be provided, so that the citizens of this Country and all other persons who are W.P. No.10931/2013 fighting with the life and death, their lives may be saved by bringing them to the safe places. It has been informed during course of arguments by learned counsel for the parties as well as learned Additional Advocate General and Deputy Advocate General that rescue centres at Haridwar has been temporarily made by the State of M.P. We do not know, whether the similar criteria has been adopted by the Central Government and by different States and because we are issuing notices to all the States and Central Government and also to the National Disaster management Authority, therefore, we hereby direct as an interim measure to send a team of doctors consisting of specialist of heart, neurologist, gynecologist, pediatric and also team of doctors of surgical specialist including orthopedic surgeon so that immediately the person can be given necessary treatment and if necessary minor surgery etc may be done so that by the time the citizen could reach at their respective places, may be cured. We have informed that the State of M.P. Has sent 4 helicopters and it has been informed by learned Additional Advocate General that two have been taken by the Army persons. Since news has been flashed that in coming next 24 hours there will be heavy

rains and thunder showers again in the State of Uttarakhand and therefore, looking to the urgency, we hereby direct that sufficient number of helicopters may be sent at different places of State of Uttarakhand in order to rescue the citizens, who are praying to save their lives at a height of 10-11 thousand feet from the sea level. After the citizens are brought to the places like Haridwar and Deharadoon, by way of interim order, we hereby direct all the zones of Railways to start special trains to carry these persons. Similarly, all the States are hereby directed to depute special buses to carry the citizens from Dehradun, Haridwar and Rishikesh to the places of their destination. Apart from aforesaid directions which we have given as an interim measure, we further direct all the States as well as Union of India and National Disaster Management Authority to do all the needful which they can do as best as they can to save the lives of all the people who are fighting with life and death at different places of W.P. No.10931/2013 State of Uttarakhand. We further direct the learned Additional Advocate General to give in writing all the measures, the State of M.P. has till not taken and what future plans they are having to rescue the lives of citizens, who are facing the tight situation at State of Uttarakhand. Let the compliance report by fax and e- mail be called from the Union of India and all other States and authorities. Shri Raghuvanshi, learned Additional Advocate General is hereby directed to do the needful. Let a free copy of this order be provided to learned Additional Advocate General, President of Bar, High Court Bar Association, Gwalior and Shri J.P. Mishra, who is member of State Bar Council. List tomorrow i.e. on 24.6.2013.

. As Shri R.D.Jain, learned Advocate General has assured us that he will apprise this Court on next date of hearing about the steps which have been taken by the State Government, we find it appropriate to fix this case for hearing on 26.6.2013. In the meantime, the following directions are given: (i) The State shall collect the information from all the Collectors of the State by tomorrow in respect of the persons who had gone to Uttarakhand for pilgrimage and shall ensure about the whereabouts of the aforesaid persons who are still missing. (ii) The State shall also give adequate publicity in newspapers, TV to this aspect, so that the entire information is received by the State Government by tomorrow. Due publicity shall be given about those persons who have been deployed in the affected areas. (iii) The aforesaid information shall be supplied to the Chief Secretary who shall give

direction to the officers who are deployed at Uttarakhand so that they may be in a position to trace out the persons and to extend help to those persons. Apart from this, due publicity shall be given in the affected areas that the officers from Madhya Pradesh are available to extend due help to the persons, who are affected by the disaster. All types of W.P. No.10931/2013 help like food, drinking water and medical facilities etc. shall be provided to the persons, so that they can safely return to their home. (iv) As Gwalior Bench have already issued direction, there is no need to repeat such direction, but learned counsel appearing for Union of India shall apprise us about the use of funds which were provided to the Disaster Management Committee and steps, if any, which are taken by the said Committee. All the information be submitted before this Court on 26.6.2013, so that appropriate directions may be issued in this regard. Learned Advocate General shall also apprise in nut shell the steps taken by the State Government so far for extending help to the affected persons. He will also apprise about the entire further action and efforts which are intended by the State Government. Let a free copy of this order be supplied today to Shri R.D. Jain, Advocate General and Shri Siddiqui, Assistant Solicitor General for necessary action. (Krishn Kumar Lahoti) (Subhash Kakade) Acting Chief Justice Judge snb/-

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