

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (PIL) No. 64 of 2020

Abhijay Negi Petitioner.

Vs.

State of Uttarakhand and another Respondents.

Present:

Mr. Abhijay Negi, learned Counsel for the petitioner.

Mr. K.N. Joshi, learned Deputy Advocate General and Mr. Paresh Tripathi, CSC for the State of Uttarakhand.

**Coram: Hon'ble Ramesh Ranganathan, C.J.
Hon'ble Alok Kumar Verma, J.**

Hon'ble Ramesh Ranganathan, C.J. (Oral)

1. This writ petition is filed in public interest questioning the failure of both the State Government, and the Urban Local Bodies in the State, to ensure effective implementation of the provisions of Uttarakhand Anti-Spitting and Anti-Littering Act 2016, in the State of Uttarakhand during the present crisis where spread of the Covid-19 disease is said to be caused by droplets.

2. The Uttarakhand State Legislature enacted the Uttarakhand Anti-Spitting and Anti-Littering Act, 2016 (for short the "2016 Act") which was notified in the State Gazette on 30.11.2016. The 2016 Act, a comprehensive Legislation, defines "spitting" in Section 3(j) to mean ejection of saliva from the mouth after chewing or without chewing, ejection of mucus from the nose after inhaling snuff or without inhaling etc. Section 4 states that any person, who spits in any public place, commits an offence under this Act. Section 3 (i) defines "public place" to include every public highway, street, road, hill side, drains, waterways, subways, bridges etc. Section 9 relates to penalties, and stipulates that any person, who contravenes any of the provisions of this Act, commits an offence and shall, on conviction, be liable to a fine not exceeding Five Thousand Rupees, or to imprisonment for a term not exceeding six months, or both.

3. In the affidavit filed in support of the writ petition, the petitioner has also referred to the guidelines said to have been issued by the Ministry of Home Affairs, Government of India during the second phase of the lockdown making spitting, in a public place, an offence under Section 51(b) of the Disaster Management Act, 2005.

4. Since spitting in public would increase the spread of Covid-19 disease, urgent steps need be taken by the State Government to ensure effective implementation of both the 2016 Act, and the guidelines issued by the Government of India under the Disaster Management Act.

5. While the writ affidavit, and the documents annexed thereto, highlight the abject failure, of Urban Local Bodies in the State, to issue challans and collect fines from those who are found spitting in public, it does appear that the main reason for non-adherence of the said law, is the lack of awareness among the public at large of the enactment of such a law, or regarding the guidelines issued by the Government of India in this regard.

6. While the petitioner seeks a mandamus to the authorities to issue challans and collect fines, and thereby ensure effective implementation of these laws, we refrain from doing so, for the present, as we apprehend that any such directions may result in increasing the financial burden of the poor and the needy, who hardly have any means of livelihood during this crisis, on being required to pay these fines.

7. Suffice it, for the present, to direct respondent nos.1 and 2 to give wide publicity to the provisions of the 2016 Act, and the guidelines issued by the Government of India under the Disaster Management Act, in the media; and to issue circulars, instructions and directions to all Urban Local Bodies in the State drawing their attention to the provisions of these Acts, and reminding them of their obligations in terms thereof. The concerned Local Bodies shall also be directed by the State Government to give wide publicity to the aforesaid provisions, and take necessary steps to prevent spitting in public. An action taken report, in this regard, shall be filed on behalf of respondent nos.1 and 2 by the next date of hearing.

8. Post on 26.05.2020, by which date the report as afore-directed shall be filed in Court.

9. Mr. K.N. Joshi, learned Deputy Advocate General, is present during the hearing and undertakes to inform respondent nos.1 and 2 of their obligations under this order.

10. Let a copy of this order be supplied to the learned Counsel for the parties, by tomorrow, on payment of the prescribed charges.

(Alok Kumar Verma, J.) (Ramesh Ranganathan, C.J.)
18.05.2020