

WPPIL No. 85 of 2014

Hon'ble Rajiv Sharma, J.

Hon'ble Alok Singh, J.

In view of divergence of opinion, the matter may be placed before Hon'ble The Chief Justice to refer the matter before the Appropriate Bench.

(Alok Singh, J.) (Rajiv Sharma, J.)

07.05.2018

Kaushal

(MCC No.605 of 2018 & CLMA 5616/18)

In

WPPIL No. 85 of 2014

Hon'ble Rajiv Sharma, J.

Hon'ble Alok Singh, J.

Mr. Tapan Singh (Amicus Curiae) present for the writ petitioner.

Mr. Ajay Gautam, petitioner, present in person.

Mr. K. N. Joshi, Deputy Advocate General present for the State.

This Court has pronounced the judgment in WPPIL No. 85 of 2014 on 19th November, 2016 whereby certain directions were issued to the State Government.

Against the judgment dated 19th November, 2016, the State Government has filed Special Leave Petition before the Hon'ble Supreme Court. The Hon'ble Apex Court, while allowing the appeal(s), has made the following observations: -

“We will be failing in our duty if we do not note the submission of Mr. Gonsalves that certain directions may withstand scrutiny. Respondent appearing in person submitted that certain directions have been complied with by the State. We are not inclined to get into that. However, if the respondents make out a specific case for interference before the High Court which comes within the domain of judicially manageable and/or permissible standards, it may pass appropriate orders.”

Petitioner Mr. Ajay Gautam submits that the Court may have a re-look into the directions issued by this Court. He also submits that in certain areas construction is to be made by the Central Agencies.

This Court leaves it open to the Central Government to take action in this matter as per its own discretion.

However, before we proceed with the matter further, we request the Chief Secretary to the State of Uttarakhand to assist the Court, on or before the next date of listing, to point out certain directions which cannot be complied with by the State Government due to policy matter or financial crunch, and/or the directions which can be complied with by the State Govt. to bring the directions within the judicially manageable and/or permissible standards.

List on 15th May, 2018 for further orders.

(Alok Singh, J.) **(Rajiv Sharma, J.)**

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Kaushal

(MCC No.605 of 2018 & CLMA 5616/18)

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(Alok Singh, J.) (Rajiv Sharma, J.)

07.05.2018

Kaushal

MCC No. 605 of 2018
CLMA No. 5616 of 2018
In
WPPIL No. 85 of 2014

Hon'ble Alok Singh, J.

Mr. Tapan Singh, Amicus Curiae in the matter.

Mr. Ajay Gautam, petitioner, in person.

Mr. K.N. Joshi, Deputy Advocate General for the State of Uttarakhand.

Present PIL was decided by this Court on 19.11.2016. Feeling aggrieved, State of Uttarakhand has filed Civil Appeal Nos. 2899, 2900 and 2901 of 2018 before the Hon'ble Supreme Court against the judgment dated 19.11.2016. The three-Judge Bench of Hon'ble Supreme Court headed by Hon'ble the Chief Justice allowed the appeals vide order dated 16.03.2018 and set aside impugned orders. The Hon'ble Supreme Court has observed as under:

CA Nos. 2900 & 2901 of 2018

“We will be failing in our duty if we do not note the submission of Mr. Sonsalves that certain directions may be withstand scrutiny. Respondent appearing in person submitted that certain directions have been complied with by the State.

We are not inclined to get into that. However, if the respondents make out a specific case for interference before the High Court which comes within the domain of judicially manageable and / or permissible standards, it may pass appropriate order.

Resultantly, the appeals are allowed and the impugned orders are set aside.”

CA No. 2899 of 2018

“Having heard learned counsel for the appellants, we are of the considered that the directions of the nature issued by the High Court should not have been issued in a Public Interest Litigation.

Resultantly, the appeal is allowed and the impugned orders are set aside.”

By means of present MCC application, applicant has once again approached this Court seeking more or less same reliefs, which were refused by the Hon’ble Supreme Court. The Hon’ble Supreme Court has not remanded the matter but has specifically observed that it is of the considered view that such directions should not have been issued in a PIL.

Therefore, I am of the view that no direction can be issued on the present application. I am not in agreement with the view taken by my respected Brother.

(Alok Singh, J.)

07.05.2018