

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

WRIT PETITION (PIL) NO. 61 of 2020

Akshay SharmaPetitioner.

Vs.

Union of India and others. ...Respondents

Sri Akshay Sharma, petitioner, in person.

Sri Rakesh Thapliyal, learned Assistant Solicitor General for Union of India.

Sri Paresh Tripathi, learned Chief Standing Counsel with Sri B.S. Parihar, learned Standing Counsel and Sri J.C. Pandey, learned Brief Holder for the State of Uttarakhand.

Dated: 21th May, 2020

Coram: Hon'ble Ramesh Ranganathan, C.J.

Hon'ble R.C. Khulbe, J.

Ramesh Ranganathan, C.J. (Oral)

Heard Sri Akshay Sharma, petitioner-in person, Sri Rakesh Thapliyal, learned Assistant Solicitor General for the Union of India, and Sri Paresh Tripathi, learned Chief Standing Counsel appearing for the State Government.

2. The jurisdiction of this Court was invoked by the petitioner complaining that, though Haridwar district did not see any increase in Covid-19 cases, it was nonetheless classified as red zone, while districts Dehradun, Udham Singh Nagar and Nainital, which saw a surge in Covid-19 cases, were classified as orange zones.

3. We had asked both the learned Assistant Solicitor General appearing for the Union of India, and the learned Chief Standing Counsel appearing for the State Government, to obtain instructions. It is brought to our notice that in Lockdown 4.0, which commenced on 18th May, 2020, the Government of India has left the matter, of classifying districts or areas into different coloured zones or containment zones, to respective State Governments; pursuant thereto, the Government of Uttarakhand has re-classified zones within the State; and, as a result, only Almora, Dehradun, Nainital, Pauri Garhwal, Udham Singh Nagar and Uttarakashi districts are classified as orange zones, and all other districts in the State, including Haridwar, are now classified as green zones.

4. While fairly stating that his grievance no longer survives since Haridwar is now classified as a green zone, Sri Akshay Sharma, petitioner-in person, would however contend that the validity of original classification may still require examination on the touchstone of Article 14 of the Constitution of India.

5. In these times of a global pandemic of the Covid-19 disease, stringent measures have been taken, and severe restrictions have been imposed, both by the Government of India and the State Government to prevent its further spread. In their endeavour to protect the life and health of its citizens / inhabitants, the executive is entitled to some elbow room and a free play in its joints. It is not even the petitioner's case that such classification of zones had resulted in an increase in Covid-19 cases in different districts of the State. His grievance is that, as there were no increase in the number of Covid-19 cases in Haridwar district, it ought to have been classified as a green zone, and was instead classified as a red zone. Factors, such as Haridwar being a pilgrimage centre where people may gather in large numbers if such restrictions were not imposed, may have also weighed with the authorities in classifying it as a red zone earlier.

6. Since the petitioner's grievance, regarding such classification, does not subsist as on date, we see no reason to dwell on this aspect any further. Suffice it, while dismissing the writ petition as infructuous, to make it clear that the order now passed by us shall not disable the petitioner, if he is aggrieved by any unreasonable restriction imposed by the State Government later, to avail his judicial remedies.

7. Subject to the aforesaid observations, the Writ Petition is dismissed as infructuous. No costs.

(R.C. Khulbe, J.)
21.05.2020

(Ramesh Ranganathan, C.J.)
21.05.2020