

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI VIPIN SANGHI
AND
HON'BLE SRI JUSTICE RAKESH THAPLIYAL

10TH AUGUST, 2023

WRIT PETITION (PIL) No. 79 OF 2022

Gauri Maulekhi.

...Petitioner

and

State of Uttarakhand and others.

...Respondents

And

WRIT PETITION (PIL) No. 105 OF 2023

Ajay Gautam.

...Petitioner

and

State of Uttarakhand and others.

...Respondents

Counsel for the petitioner in WPPIL No. 79/2022. : Ms. Gauri Maulekhi, petitioner, party-in-person.

Counsel for the petitioner in WPPIL No. 105/2023. : Mr. Ajay Gautam, petitioner, party-in-person.

Counsel for the State of Uttarakhand. : Mr. C.S. Rawat, learned Chief Standing Counsel assisted by Mr. Gajendra Tripathi, learned Brief Holder for the State of Uttarakhand.

Counsel for respondent no. 5 in WPPIL No. 79/2022. : Mr. Aditya Pratap Singh, learned counsel.

Counsel for respondent no. 10 in WPPIL No. 79/2022. : Mr. Anil Kumar Bisht, learned counsel.

COMMON ORDER : (per Sri Vipin Sanghi, C.J.)

In pursuance of our order dated 24.07.2023, passed in WPPIL No. 79/2022, the Secretary, Animal Husbandry Department, Government of Uttarakhand – Dr. B.V.R.C. Purushottam, is present in Court. Further affidavits/ compliance affidavits have been filed by the respondents in pursuance of our said order.

2. At the outset, Dr. Purushottam has submitted that, in comparison to the last year, i.e. 2022, the situation has seen significant improvement, with regard to the Equine health, care and management, deployed on the Kedarnath Yatra. A comparison of the Equine data for Kedarnath Yatra 2022, and 2023 has been provided in the affidavit filed by Shri Rajendra Kumar Bhatt, the Joint Secretary, Animal Husbandry Department, Government of Uttarakhand, which has been referred to by him. The tabulation provided in the affidavit is as follows :-

Comparison of Equine Data for Kedarnath Yatra 2022 & 2023			
Parameter	Kedarnath Yatra 2022	Kedarnath Yatra 2023	Percent age Change

Number of Days From Start of Yatra	95 Days (08th August 2022)	95 Days (28th July 2023)	
Equine Treatments	3221	3482	+ 8 %
Equine Deaths	213	114	-86%
Equine Health Checks	14835	15391	+3.7%
Equines Rendered Unfit	193	423	+119%
Financial Penalties (Challans)	119	215	+80%
FIRs Lodged	09	17	+88%

3. The affidavit further discloses that a 30 member Mule Task Force, consisting of Prantiya Rakshak Dal Jawans, has been constituted, with multiple objectives of Equine management, and to curb cruelty against Equines. The Mule Task Force Jawans keep a constant vigil on the Equines plying on the Yatra Trek, and support the Sector Officers/ Zila Panchayat Staff/ Administration/ Veterinarians in taking punitive action against law evaders. A total of 215 financial penalties have been imposed against Equine owners, and 17 FIRs have been registered for cruelty to animals this year till 28th July 2023. Arrangements have been made to provide lukewarm water to the Equines on Yatra Trek by installing 04 Warm Water Troughs with 1,000 liters

capacity each, and 13 Warm Water Troughs with 300 litres capacity each, as compared to only 02 Warm Water Troughs of only 1000 litres capacity each, which were functional till last year. The Mule Task Force Jawans have been assigned the responsibility to manage these Warm Water Troughs.

4. The Standard Operating Procedure, for management and welfare of Equines on Yatra Trek, has been promulgated this year by the State Government, vide G.O. No. 775 dated 01st May 2023, which is being enforced in letter and spirit.

5. The affidavit further states that the District Administration has set up temporary Veterinary Hospitals in the Kedarnath Yatra Trek at Sonprayag, Gaurikund, Lincholi and Kedarnath, to provide veterinary health facilities to the Equines. As compared to only 04 Veterinarians deployed last year, the District Administration has appointed a total of 07 Veterinarians and 05 Para-Veterinary Staff on the Yatra Trek this year, who are providing veterinary services round the clock, and are also conducting regular health screening of the Equines on the trek. A total of 3482 treatments have

been provided to the Equines on the Yatra Trek this year, and a total of 21324 equines have been screened, and 423 equines rendered unfit till 28th July 2023.

6. It is further stated in the affidavit that a building, along with adjoining land in Phata, has been identified, and is being customized and renovated for use as an infirmary away from trek, so that sick animals may be segregated from healthy ones. The said infirmary is proposed to accommodate about 30-40 sick/ injured Equines. Apart from this, a smaller transit infirmary, with capacity of about 07-10 Equines, is under construction at Gaurikund, and is expected to be functional within a week.

7. The affidavit also gives the particulars of the areas identified by the State for construction of shelters for Equines on the Kedarnath Route/ Trek. It is stated that at Gaurikund, a shelter for Equines has already been constructed, and lands have been identified at Kedarnath and Lincholi, and transferred to Animal Husbandry Department. The information provided, with regard to the Project Proposals for Strengthening of

Veterinary Health Services in Kedarnath Trek, is as follows :-

S. No.	Name of the Project	Estimated amount (in lakhs)	Implementing agency	present status
1	Construction of Veterinary Hospital, Animal Sheds and Transit Hostel at Gaurikund	188.40	Irrigation Department, Uttarakhand	Estimates forwarded to NABARD for fund release. Tender process has already been initiated (e-Tender on 03-08-2023 notification annexed annexure - 7)
2	Construction of Veterinary Hospital, Animal Sheds and Transit Hostel at Rudra Point, Kedarnath	464.96		
3	Construction of Veterinary Hospital, Animal Sheds and Transit Hostel at Lincholi	192.31		
4	Construction of infirmary for sick equines at Shersi (Phata)	282.66		process is ongoing

8. The affidavit states that the Animal Welfare Board of India (AWBI) has made recommendations on 26.05.2016 and 31.05.2022. Similarly, the Uttarakhand Animal Welfare Board (UAWB) has also made recommendations on 29.10.2014, 07.05.2015 and 28.08.2017. The affidavit states that, though, as per the recommendations of the Uttarakhand Animal Welfare Board, the maximum carrying capacity for Kedarnath was estimated at 3800 Equines, but considering the

heavy influx of pilgrims (11,71,747 Pilgrims visited the Shrine of Kedarnath in the first 98 days of the Yatra, as compared to 9,85,763 Pilgrims in the year 2022, i.e. increase of 18.86%), and to allow one day rest to the Equines, few more Equines have been considered to be permitted.

9. Dr. Purushottam, during his submissions, has stated that 5000 equines have been permitted due to the heavy rush, and demand for equines on the Kedarnath Trek.

10. Ms. Maulekhi has pointed out that the actual numbers are far in excess of even the 5000 mark, as a large number of unregistered handlers are also deploying their Equines for the Yatra illegally.

11. During the course of hearing, we have been informed that, at the start of the Yatra Route, there is a barrier, through which the Equines have to pass with their handlers and pilgrims. We see no reason why the State authorities should not be able to check the Equines and the handlers, when they cross the barrier, to ensure that only the registered Equines and handlers are permitted to cross the barrier, and others are stopped.

The purpose of registration of Equines and handlers would lose its significance and purpose, if even unregistered Equines and handlers are able to pass the barrier unchecked. Such infiltration would also completely derail the Yatra on the route, with influx of unregistered Equines and handlers, thereby increasing their population even beyond the limit of 5000 Equines per day, statedly permitted by the administration on the Yatra route.

12. We, therefore, direct the State to ensure strict implementation of the Rule, that only registered Equines and handlers would be allowed on the Yatra route, and not others. The concerned District Magistrate should ensure that sufficient police force is deployed at the barrier to prevent forced unauthorized entry into the Yatra Route by unregistered handlers, along with their unregistered Equines. Any other routes, which are not barricaded, should be blocked to prevent unauthorized entry.

13. Ms. Maulekhi and Mr. Gautam both state that the District Magistrate of Rudraprayag has now issued an order, banning the deployment of Equines between

sunset and sunrise. The District Magistrate, Rudraprayag is also present virtually during the hearing, and he has assured us, that he shall strictly enforce his order.

14. We direct the District Magistrate, Rudraprayag, and the other District Magistrates concerned, to ensure that Equines are not deployed on the Yatra Treks of Kedarnath, Yamunotri and Hemkund Sahib, between sunset and sunrise, so that they can be rested before they are again deployed to render service on the next day.

15. The petitioners have also pointed out that Equines, which are no longer considered good enough to carry pilgrims on the Kedarnath Trek Route, or which are otherwise poorly built, are utilized to carry provisions, raw materials and equipments. They are often overloaded beyond their capacity, and when they are not able to carry the load, they are subjected to very cruel and violent treatment, which often results in their death. They have, therefore, submitted that the load carrying capacity of the small, medium and large Equines should

be determined, and enforced on the pilgrimage treks on mountainous terrains.

16. Dr. Purushottam has also agreed to this suggestion, and he states that the same shall be put into action, without any delay.

17. It has also been suggested by the petitioners that the equines should be made to ply only for one trip per day on any pilgrim trek. They have pointed out that, at times, the Equines are deployed for more than one trip, which not only exhausts them, but also causes injuries to them.

18. This suggestion of the petitioners is also agreed to by Dr. Purushottam, and he has assured us that this suggestion would also be implemented by the local administration.

19. The petitioners have submitted that the Equines should be unsaddled each day, and their physical fitness should be checked after unsaddling, to ensure that they definite examination can be done, whether they have, or have not suffered wounds, while discharging their duty, before they are sent upward for

journey. This exercise should be conducted in respect of the Equines deployed on all the pilgrimage routes.

20. The failure to remove the saddles, while checking the fitness of the Equines, prevents the detection of wounds that the equines may have suffered, while carrying loads on pilgrimage treks. Such wounds, if not treated in time, lead to grave suffering by the Equines and, eventually, can even lead to their death.

21. Dr. Purushottam fully agrees with this suggestion of the petitioners, and assures the Court that steps would be taken to implement the said measure, without any delay.

22. Ms. Maulekhi has also submitted that more infirmaries need to be created and operationalized, for the diseased, lame, disabled, malnourished, as well as those Equines, who are treated with cruelty. She submits that such Equines should be seized by the Police, and brought to the infirmary for their treatment. She submits that mere fining the handlers/ owners, does not address the urgent need to treat the Equines, who have suffered while rendering service on the pilgrimage routes.

23. Dr. Purushottam admits that, due to lack of facilities of infirmaries, the injured, diseased, disabled and malnourished Equines could not be seized, as there was no place to take them to. However, since infirmaries have been set up on the Kedarnath Yatra Route, and others are also in the stage of being set up, he assures that, henceforth, all such animals would also be seized and kept at the infirmary for their recovery.

24. We are of the view that mere fining of the handlers, or filing cases against them for inflicting cruelty to the animals, is not sufficient to rein in and discipline the erring handlers/ owners of Equines. The fines are nominal and criminal cases take years to get decided. There is no fear, in erring handlers/ owners of Equines, of suffering any adverse consequences if they do not mend their conduct, and to stop subjecting their Equines to cruelty for commercial gain. The only effective way, in which cruelty to the Equines can be curbed, is by blacklisting such handlers/ owners, who are found to be subjecting their Equines to cruelty and maltreatment.

25. We, therefore, direct the State to formulate a scheme/ Rules in this regard, and to implement the same strictly as, it is only the fear of being debarred from carrying on their business, that will drive the erring handlers/ owners of Equines, to fall in line.

26. Ms. Maulekhi acknowledges the work done by the State for providing warm portable water to the Equines on the pilgrimage treks. Dr. Purushottam assures that the said facility shall be continued to be made available, without any lapse.

27. The petitioners have also pointed out that it is necessary to conduct a Glanders Test for each Equine, deployed on the Yatra Routes, as the said disease is highly dangerous for the Equines. The said disease is infectious, and, if not checked and addressed in time, it can create havoc, particularly, since a large number of Equines are deployed on narrow routes, and they are also kept in close contact with each other in the sheds.

28. Dr. Purushottam agrees that Glanders Test, for each of the equines deployed on the pilgrimage routes should be done, and he has assured that the State shall take steps to ensure that all such Equines are

put to Glanders Test, before they are deployed on the pilgrimage routes.

29. Ms. Maulekhi has also submitted that the Equines should be put to Endurance Test once in a season to check cardiac malfunction. Dr. Purushottam, however, submits that it is not possible to subject the Equines to Endurance Test before they are deployed, due to the reason that the Equines arrive with their handlers a day before the start of the Yatra, and there is no time to subject thousands of Equines to such test, before they are permitted to be deployed on the Yatra Routes.

30. We are of the view that the State should have a system of screening the Equines, which are sought to be deployed on Yatra Routes by competent Veterinary Doctors and Veterinarians, and if the experts feel – after physical examination of the Equine(s), that any particular Equine, or Equines, should be subjected to such Endurance Test, in respect of such Equine(s), Endurance Test should be conducted before the Equine is permitted to be deployed on the pilgrimage routes.

The State should take measures to implement this direction.

31. Ms. Maulekhi has also submitted that the Insurance Scheme in respect of Equines, is being exploited by the handlers. Equines, which suffer injury, or become disabled, or are malnourished, or are otherwise treated with cruelty, and are not in a position to render service, are subjected to further cruelty by their handlers, to ensure that they die, and their insurance claims mature.

32. On the other hand, Dr. Purushottam submits that there is no empirical data to support this theory. He submits that this year, with steps being taken by the State, number of Equine deaths, on the Yatra Routes have declined. To this, the submission of Ms. Maulekhi is that a large number of deaths take place each year, amongst the unregistered Equines, and these numbers are not even accounted for by the State.

33. Though the number of deaths of Equines deployed on the Yatra Routes may have declined, as stated in the affidavit filed by Shri Rajendra Kumar Bhatt, the same still appears to be significant. We,

therefore, direct the State to collect and collate the data, with regard to Equines deaths on the pilgrimage routes in the State, and to analyze the reasons for such deaths.

34. The purpose of insuring Equines is to provide security to their handlers/ owners against losses, which they may suffer on the death of their equine – which is the source of their earning. At the same time, the grant of insurance cover, in respect of the equines should not become a reason for their being subjected to cruelty and maltreatment, resulting in their death, particularly, after they are of no use to their handler due to their age, injuries etc.

35. We, therefore, direct the State to look into their policy, with regard to grant of insurance of the Equines, so as to exclude the possibility of claims, which arise from deaths of Equines caused due to excessive deployment, ill-treatment, malnutrition and neglect of Equines. This would ensure that only genuine claims are made, and honored, where the death of the Equine takes place, for reasons not attributable to the handler.

36. Ms. Maulekhi has also submitted that sheds - for all Equines used on the pilgrimage treks, should be

erected, to prevent their exposure to extreme weather conditions.

37. Dr. Purushottam submits that it would not be feasible to implement such a suggestion, primarily, due to constraint of space for creation of such shelters on the pilgrimage routes.

38. Even if sheds cannot be created to house all the Equines in the night, to prevent exposure to extreme weather conditions, the State should do whatever best can be done in this regard. The State should also examine the said issue carefully, and come up with alternative solutions to be able to prevent exposure of the Equines to extreme weather conditions during night stay.

39. Ms. Maulekhi has also suggested that Equines should be made to move in convoys, so as to instill discipline and increase safety, after imparting training to the handlers by the ITBP.

40. Dr. Purushottam, however, submits that this suggestion cannot be implemented, for the reason that the pilgrims, who use Equines, cannot be bound to

follow the discipline of moving in a convoy, as the pilgrims may want to take breaks on the pilgrimage route to meet their needs. In the light of this explanation, we are presently not passing any orders in this regard.

41. Ms. Maulekhi has also submitted that, looking to the very large number of Equines deployed on the pilgrimage routes, it is necessary that the State should implement a Stampede Prevention Mechanism at regular intervals on the pilgrimage routes.

42. Dr. Purushottam, however, states that, looking to the practical situation on the ground, it is not possible to introduce any such mechanism.

43. We cannot agree with Dr. Purushottam on this aspect. Stampede Prevention Mechanism is absolutely necessary, and should be implemented along the pilgrimage routes, to prevent any accident involving large number of people. It is for the State to examine the situation on the ground, and to come up with solutions in this regard, since it is the responsibility of the State to ensure the safety of the pilgrims and all others on the pilgrimage routes. We, therefore, direct

the State to examine the said aspect, and come up with a solution before the next date.

44. We direct the State to file its further affidavit before the next date, dealing with all the aforesaid aspects. We further direct the State to continue to implement, and abide by our directions issued in these Writ Petitions till now.

45. List on 20.09.2023.

VIPIN SANGHI, C.J.

RAKESH THAPLIYAL, J.

Dt: 10th AUGUST, 2023
Rahul