

**RAKSHIT JOSHI v. STATE OF UTTARAKHAND & ORS**  
**HIGH COURT OF UTTARAKHAND AT NAINITAL**  
**JUDGEMENT DATE:- 27.07.2020**

**Summary Prepared by**  
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**Facts:-**

**Factual:-**

This writ petition was filed in the nature of public interest litigation before the High Court of Uttarakhand by a practising lawyer, Mr. Rakshit Joshi. It was filed before the Registry of the High Court on June 14, 2019 against 19 respondents and the matter first came before the Court on July 17, 2019. The petitioner had expressed his concerns of environmental degradation and pollution caused by the extremely lavish mega-marriages of the sons of Respondents 12 and 13 held at a remote and eco sensitive location as Auli, in District Chamoli in Uttarakhand.

Respondent no. 12 and 13 are members of a “super rich” Indian family, i.e., Gupta family, who chose Auli as an exotic destination for the respective weddings of their sons. The marriage thus held was a mega event and as per the newspaper reports it was in all a Rs. 200 crore lavish wedding, inclusive of lavish meals, entertainment, shows, etc. stretched over a period of an entire week, i.e., July 17<sup>th</sup> to July 23<sup>rd</sup> 2019. It was to be attended by a large numbers of guests, including movie celebrities. They were in the process of construction of helipads for easy transport of their guests to the location as well as large number of weather tents, toilets, huge ‘shamianas’ have been constructed (as stated in the petition). By the time the writ petition was taken up by the court invitation cards had already been sent and major formalities had been completed by the parents of the bridegrooms and their event organizers.

**Procedural:-**

The cause of action for the PIL arose because the State Government of Uttarakhand granted the respondents permission to conduct an event of such large scale in a sensitive zone without considering the consequences of the same.

The first order passed by the Division Bench on June 17, 2019 held that the State Government must keep in check such “mindless pursuits” of engaging in such large scale events at eco sensitive locations which are perceived as “exotic destinations” and in turn causes irreparable environmental degradation of the said area. According to the report of the SPCB, 32.6 tons of waste was generated, out of which 15.41 tons was non bio-degradable and the remaining quantity of 17.23 tons was bio-degradable waste.

In the Court's order dated 17.06.2019 and 18.06.2019, it did not stay the ceremonies. The Court had restrained construction of the helipads and directed respondent nos. 12 and 13 to deposit an amount of rupees three crores with the District Magistrate, Chamoli, Uttarakhand.

**Contentions:-**

- The case of the petitioner is that where the wedding ceremonies, reception and a whole lot of other activities were held at Auli, which is a "Bugyal" and activities of this nature at such a large scale, cannot be permitted at a Bugyal, which is an eco sensitive place. He has raised concern about violations of environmental laws, at the hands of the private respondents, as well as violations of the orders of the Uttarakhand High Court as well as of Allahabad High Court, which were for the protection of bugyals in Uttarakhand. These orders, inter alia restricted human activities on a bugyal in Uttarakhand.
- In the counter-affidavit, the respondents have claimed that Auli is not a bugyal and the marriage would provide a much needed boost to the tourism industry of Uttarakhand, to an extent that Uttarakhand would feature on the world tourist map. However, they have not contended the allegations of environmental degradation.

**Summary of judgement:-**

The essence of the judgement pronounced by the HC can be figured by paragraph 43:-

*"We require to conserve and protect our biological resources. India is one of the 12 Mega diversity rich countries in the world. Himalaya mountains is one of the main repository of the Biodiversity wealth of the country, and Auli lies in a sub-alpine region of Himalayas, in the catchment area of Dhauliganga basin. The importance of Auli and its surrounding areas has to be seen primarily from this aspect. "Auli" can never be viewed as an exotic tourist destination or a wedding destination."*

The Court reminded that as a signatory to the Rio de Janeiro Convention of 1992-93, India has an obligation to conserve its biological diversity, use it in a sustainable manner and ensure equitable sharing of benefits derived from such resources. The protection and improvement of environment and safeguard of forests is one of the Directive Principles enshrined in Part IV of the Constitution of India (Article 48-A) and in Part IV A of the Constitution of India, it is a fundamental duty of every citizen to "protect and improve the

*natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures” (Article 51-A (g)).*

While hearing the matter on 10.02.2020, the Court said that since the ceremonies have already been solemnized and the damage is already done, the Court has to focus on the bigger question, which is whether the nature of event and which has taken place at Auli, should ever be allowed in the future, and what needs to be done. It referred to the verdict of the Apex Court in *Indian Council for EnviroLegal Action v. Union of India*<sup>1</sup> that HCs have to take greater responsibilities to take effective steps to curb environmental pollution in their respective states.

First off, the Court considered the question as to what is a “bugyal” and if Auli can be considered as one. “Bugyal” is the local name given to Alpine meadows (lands lying beyond the tree line and covered in soft green grass) in Uttarakhand. The High Court referred to the study of Professor G.S. Rawat called “Alpine meadows of Uttaranchal”, which does not include Auli in its list of Uttarakhand’s 82 bugyals. The Court also referred to the reports submitted by Wadia Institute of Himalayan Geology and G.B. Pant National Institute of Himalayan Environment & Sustainable Development, which jointly concluded that Auli is not a bugyal since it is much below the natural tree line and absence of “bugi” species that are found in bugyals. The Court therefore held “*Auli is not an Alpine meadow and may not be a bugyal, but it is still a sub-Alpine meadow*”. However the question of environment and pollution remains a prime concern.

Auli lies in extreme close proximity to the Gaurson Bugyal which is one of the most renowned and environmentally sensitive bugyal. Auli falls in the Dhauri Ganga Catchment Area of Nanda Devi Forest Division which is a rich source of medicinal and aromatic plants and herbs. It also lies in the periphery of the famous Nanda Devi Biosphere Reserve which is a world heritage site by UNESCO.

Considering the prime location of Auli, in case if it were to be categorized as a bugyal, then organizing such an event is in strict violation of at least two orders of the High Courts of Uttarakhand and that of Allahabad.

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<sup>1</sup> AIR 1996 SC 1446

In *Om Prakash Bhatt v. State of U.P. and others*<sup>2</sup> (when Uttarakhand was still within the territory of Uttar Pradesh), the HC directed that all constructions (except by Government tourist Company) were in violation of the serenity of the place and held that:-

*“The bugiyal belongs to the people. It is an ecosystem in itself. Nature has tailored it. It is not for man to erode the sanctity of this area. It must be returned to nature to provide for whom it was meant; the sheep, the shepherd, the wild flowers, the microorgams and the plant and insect life below the turf and in the shrubs at that altitude. Clearly, putting a tourist lodging house on a bugiyal was a mistake.”*

In *Aali-Bedini-Bagzi Bugyal Sanrakshan Samiti v. State of Uttarakhand & others*<sup>3</sup>, the HC of Uttarakhand had laid few ground rules for human intervention in the bugyals- number of tourists was restricted to 200, no permanent constructions, overnight stays and commercial grazing were permitted.

The Court also held up the duties of the Central Government and of the State Government respectively as per Sections 36 and 37 of the Biological Diversity Act, 2002. The State Government must not have given permission without considering the collateral damages. It has not fulfilled its obligations under S. 37 of exploring and locating biodiversity heritage sites in Uttarakhand, which, if undertaken in due time, the government probably would not have permitted such a mega event at a prime location as Auli.

The Court held that tourism has outgrown its definition as a mere development and revenue-earning sector, and now it means “sustainable tourism”.

*“Tourism is like fire: you can cook your food with it, but if you are not careful it can also burn your house down”*

The Court further held that its orders are not in the nature of discouraging tourism or the marriage ceremony. However, neither can be promoted at the cost of our environment and biodiversity.

The Court disposed off the petition with the following orders:-

- The State Government shall constitute an expert Committee within four weeks of the order to examine the need to identify biodiversity heritage sites in Uttarakhand and if

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<sup>2</sup> AIR 1997 All 259

<sup>3</sup> 2018 SCC OnLine Utt 760

it comes to a conclusion that it needs to be done, then the same shall be identified vide Section 37 of the Biodiversity Act.

- The expert body shall fix a carrying capacity of Auli within 3 months of its formation. The Government shall do the same for all such “tourist destinations”.
- Rs. 3,05,177/- which has been left out of Rupees Three Crore deposited by respondent nos.12 and 13 shall be deposited with the State Government Treasury. The State Government shall decide if the amount is required for repair of the damages caused, and the remaining amount be returned to the concerned respondents.
- Auli is the only skiing destination and holds winter games. The Government must limit its activities in Auli and not venture in activities which are not compatible with the principles of sustainable tourism.

**Judgements referred to:-**

- *Om Prakash Bhatt v. State of U.P. and others*
- *Aali-Bedini-Bagzi Bugyal Sanrakshan Samiti v. State of Uttarakhand & others*
- *Indian Council for EnviroLegal Action v. Union of India*