



सत्यमेव जयते

UTTARAKHAND COURT NEWS
(A Quarterly Court Magazine)

Vol.-X Issue No.-IV (October -December, 2019)



EDITORIAL BOARD

Hon'ble Mr. Justice Sudhanshu Dhulia

Hon'ble Mr. Justice Alok Singh

Hon'ble Mr. Justice Alok Kumar Verma

COMPILED BY

H.S. Bonal, Registrar General, High Court of Uttarakhand

A quarterly newsletter published by High Court of Uttarakhand, Nainital

CONTENTS

❖	Hon'ble Judges of Uttarakhand High Court.	3
❖	Transfers, Promotions & Appointments of Judicial Officers.	4-7
❖	Circulars & Notifications.	8-25
❖	Institution, Disposal & Pendency of cases in High Court.	26
❖	Institution, Disposal & Pendency of cases in District Courts.	27
❖	Institution, Disposal & Pendency of cases in Family Courts	28
❖	Some Recent Judgments of Uttarakhand High Court.	29-51
❖	Major Events and Initiatives at High Court	52
❖	Programmes attended by Hon'ble Judges.	53
❖	Activities of State Legal Services Authority (SLSA).	54-58
❖	Major Activities of UJALA.	59-60

* * * * *

UTTARAKHAND HIGH COURT**LIST OF JUDGES (As on 31 December, 2019)**

Sl. No.	Name of the Hon'ble Judge	Date of Appointment
1.	Hon'ble Mr. Justice Ramesh Ranganathan (Chief Justice)	02.11.2018
2.	Hon'ble Mr. Justice Sudhanshu Dhulia	01.11.2008
3.	Hon'ble Mr. Justice Alok Singh	26.02.2013
4.	Hon'ble Mr. Justice Lok Pal Singh	19.05.2017
5.	Hon'ble Mr. Justice Manoj Kumar Tiwari	19.05.2017
6.	Hon'ble Mr. Justice Sharad Kumar Sharma	19.05.2017
7.	Hon'ble Mr. Justice Narayan Singh Dhanik	03.12.2018
8.	Hon'ble Mr. Justice Ramesh Chandra Khulbe	03.12.2018
9.	Hon'ble Mr. Justice Ravindra Maithani	03.12.2018
10.	Hon'ble Mr. Justice Alok Kumar Verma	27.05.2019

* * * * *

Transfers and Promotion of Judicial Officers

Sl. No.	Name & Designation of the Officer	Place of Transfer	Date of Order
1.	Smt. Neena Aggarwal, 2 nd Additional District & Sessions Judge, Roorkee, District Hardwar.	Additional District Judge/FTSC, Roorkee, District Hardwar in newly created Fast Track Special Court.	01.10.2019
2.	Sri Anirudh Bhatt, 8 th Additional District & Sessions Judge, Dehradun	Additional District Judge/FTSC, Dehradun in newly created Fast Track Special Court.	01.10.2019
3.	Smt. Parul Gairola, 5 th Additional District & Sessions Judge, Hardwar.	Additional District Judge/FTSC, Hardwar in newly created Fast Track Special Court.	01.10.2019
4.	Sri Vivek Dwivedi, 3 rd Additional District & Sessions Judge, Rudrapur, District Udham Singh Nagar.	Additional District Judge/FTSC, Udham Singh Nagar in newly created Fast Track Special Court	01.10.2019
5.	Sri Sanjay Singh, Civil Judge (S.D.), Rudraprayag	Chief Judicial Magistrate, Rudraprayag. He is also given Additional Charge of Civil Judge (S.D.), Rudraprayag.	15.10.2019
6.	Sri Mukesh Chandra Arya, Chief Judicial Magistrate, Nainital	Additional Charge of the Court of Civil Judge (S.D.), Nainital.	15.10.2019.
7.	Smt. Sujata Singh, 2 nd Additional District & Sessions Judge, Dehradun.	1 st Additional District & Sessions Judge, Dehradun. She will continue as Special Judge (CBI).	22.10.2019
8.	Sri Shrikant Pandey, 3 rd Additional District & Sessions Judge, Dehradun.	2 nd Additional District & Sessions Judge, Dehradun. He will continue to try the cases dealing with Challans filed by the Vigilance, CBCID and Police Department related to the cases filed under Section (3) of P.C. Act, 1988 for Garhwal Region.	22.10.2019
9.	Sri Shanker Raj, 4 th Additional District & Sessions Judge, Dehradun.	3 rd Additional District & Sessions Judge, Dehradun.	22.10.2019

10.	Sri Gurubaksh Singh, 5 th Additional District & Sessions Judge, Dehradun	4 th Additional District & Sessions Judge, Dehradun. He will continue to try the case under U.P. Gangster Act and act as Chairman Commercial Tax Tribunal.	22.10.2019
11.	Sri Dharam Singh, 6 th Additional District & Sessions Judge, Dehradun.	5 th Additional District & Sessions Judge, Dehradun.	22.10.2019
12.	Sri Subir Kumar, 7 th Additional District & Sessions Judge, Dehradun.	6 th Additional District & Sessions Judge, Dehradun. He will continue as Special Judge NDPS Act in Dehradun.	22.10.2019
13.	Sri Dharmendra Singh Adhikari, Additional Director, Uttarakhand Judicial and Legal Academy, Bhowali, District Nainital.	Registrar (Judicial), High Court of Uttarakhand, Nainital.	22.10.2019
14.	Ms. Meena Deopa, Chief Judicial Magistrate, Hardwar.	Promoted to Uttarakhand Higher Judicial Service and posted as 7 th Additional District & Sessions Judge, Dehradun	22.10.2019
15.	Ms. Rajani Shukla, Civil Judge (S.D.), Hardwar.	Promoted to Uttarakhand Higher Judicial Service and posted as 3 rd Additional District & Sessions Judge, Rudrapur, District Udham Singh Nagar.	22.10.2019
16.	Smt. Geeta Chauhan, Civil Judge (S.D.), Ramnagar, District Nainital.	Promoted to Uttarakhand Higher Judicial Service and posted as Additional District & Sessions Judge, Karnprayag, District Chamoli.	22.10.2019
17.	Sri Ashwini Gaur	Direct recruit from the Bar to Uttarakhand Higher Judicial Service and posted as 8 th Additional District & Sessions Judge, Dehradun.	22.10.2019
18.	Ms. Kusum, Chief Judicial Magistrate, Udham Singh Nagar	Promoted to Uttarakhand Higher Judicial Service.	22.10.2019

19.	Sri Vikram	Direct recruit from the Bar to Uttarakhand Higher Judicial Service and posted as 2 nd Additional District & Sessions Judge, Roorkee, District Hardwar.	22.10.2019
20.	Ms. Anjali Noliyal	Direct recruit from the Bar to Uttarakhand Higher Judicial Service and posted as 5 th ADJ, Hardwar.	22.10.2019
21.	Sri Arun Vohra, 1 st Additional Civil Judge (S.D.), Hardwar.	Chief Judicial Magistrate, Hardwar.	22.10.2019
22.	Sri Dharendra Bhatt, Civil Judge (S.D.), Rudrapur, District Udham Singh Nagar.	Chief Judicial Magistrate, Udham Singh Nagar.	22.10.2019
23.	Sri Jayendra Singh, Additional Chief Judicial Magistrate, Roorkee, District Hardwar.	Civil Judge (S.D.), Hardwar.	22.10.2019
24.	Sri Ravi Prakash, Secretary, District Legal Services Authority, Chamoli.	Chief Judicial Magistrate, Pauri Garhwal.	22.10.2019
25.	Sri Rajeev Dhawan, Civil Judge (S.D.), Karnprayag, District Chamoli.	Chief Judicial Magistrate, Chamoli.	22.10.2019
26.	Ms. Chhavi Bansal, 1 st Additional Civil Judge (S.D.), Rudrapur, District Udham Singh Nagar.	Civil Judge (S.D.), Rudrapur, District Udham Singh Nagar.	22.10.2019
27.	Sri Akhilesh Kumar Pandey, Chief Judicial Magistrate, Chamoli.	Civil Judge (S.D.), Karnprayag, District Chamoli.	22.10.2019
28.	Sri Sachin Kumar Pathak, Civil Judge (S.D).	Attached at headquarter Rudraprayag as Civil Judge (S.D.), Rudraprayag.	22.10.2019
29.	Sri Rajesh Kumar, Additional Civil Judge (S.D), Tehri Garhwal.	Civil Judge (S.D.), Ramnagar, District Nainital.	22.10.2019
30.	Sri Shalendra Kumar Yadav, Civil Judge (J.D.), Dhari, District Nainital.	Judicial Magistrate-II, Haldwani, District Nainital with direction to hold camp Court at Dhari for 03 days in a month.	22.10.2019

31.	Sri Sikand Kumar Tyagi, District & Sessions Judge, Uttarkashi.	District & Sessions Judge, Pauri Garhwal.	22.10.2019
32.	Sri Kaushal Kishore Shukla, Registrar (Judicial), High Court of Uttarakhand, Nainital.	District and Sessions Judge, Uttarkashi.	22.10.2019
33	Smt. Neelam Ratra, Judge Family Court, Laksar, District Hardwar.	Additional District and Sessions Judge, Laksar	21.11.2019
34.	Sri Ambika Pant, Additional District & Sessions Judge, Laksar, District Hardwar.	Additional Director, Uttarakhand Judicial and Legal Academy, Bhowali, District Nainital.	21.11.2019

* * * * *

Circulars



From,

Hira Singh Bonal
Registrar General,
High Court of Uttarakhand,
Nainital.

To,

1. All the District Judges, Subordinate to High Court of Uttarakhand.
2. Principal Judge/Judges, Family Courts, Subordinate to High Court of Uttarakhand.
3. Principal Secretary, Legislative and Parliamentary Affairs, Govt. of Uttarakhand, Dehradun.
4. Secretary, Law-cum-L.R. Govt. of Uttarakhand, Dehradun.
5. Chairman, Commercial Tax Tribunal, F-6, Nehru Colony, Hardwar Road, Dehradun.
6. Chairman, State Transport Appellate Tribunal, 3/5 A, Race Course, near Rinku Medicos, Dehradun.
7. Director, Uttarakhand Judicial and Legal Academy, Bhowali, District Nainital.
8. State Judiciary, Uttarakhand.
9. Secretary, Lokayukt, 3/3 Industrial Area, Patel Nagar, Dehradun.
10. Registrar, State Consumer Redressal Commission, Uttarakhand, H.No. 176, Azabpur Kala near Spring Hill School, Mathurawala Road, Dehradun- 248415.
11. Member, Secretary, Uttarakhand State Legal Service Authority, Nainital.
12. Presiding Officer, Labour Courts, Dehradun, Hardwar & Kashipur, District Udham Singh Nagar.
13. Presiding Officer, Industrial Labour Courts, Hardwar and Kashipur, District Udham Singh Nagar.
14. Presiding Officer, Food Safety Appellate Tribunal, Dehradun and Haldwani, District Nainital.
15. Registrar, Public Service Tribunal, District Dehradun.
16. Chairman, Cooperative Tribunal, Dehradun.
17. Registrar-cum-Secretary, State Police Complaint Authority, Dehradun.

C.L. No. 04 / XIV-30/Admn. A/2019

Dated: November, 24, 2019

Sub: Regarding Casual leave/Special leave/Station leave of Judicial Officers.

Sir/Madam,

In continuation to the C.L. No. 04/XVII-7/Admn.A/2015 dated: August 04, 2015, on the subject noted above, I am directed to inform that henceforth, no application for casual leave/special casual leave/station leave would be sent in hard copy and applications for casual leave/special casual leave/station leave would be only sent in soft copy through e-mail.



I am further directed to inform that record of original copy of application proforma shall be maintained in the concerned district courts, so that, it may be sought, if required.

You are, therefore, requested to bring the aforesaid direction into the notice of all concerned and ensure compliance of the aforesaid direction.



From,

Hira Singh Bonal, H.J.S.
Registrar General,
High Court of Uttarakhand,
Nainital.

To,

2. All the District Judges, Subordinate to High Court of Uttarakhand.
2. Principal Judge/Judges, Family Courts, Subordinate to High Court of Uttarakhand.
3. Principal Secretary, Legislative and Parliamentary Affairs, Govt. of Uttarakhand, Dehradun.
4. Secretary, Law-cum-L.R, Govt. of Uttarakhand, Dehradun.
5. Chairman, Commercial Tax Tribunal, F-6, Nehru Colony, Hardwar Road, Dehradun.
6. Chairman, State Transport Appellate Tribunal, 3/5 A, Race Course, near Rinku Medicos, Dehradun.
7. Director, Uttarakhand Judicial and Legal Academy, Bhowali, District Nainital.
8. State Judiciary, Uttarakhand.
9. Secretary, Lokayukt, 3/3 Industrial Area, Patel Nagar, Dehradun.
10. Registrar, State Consumer Redressal Commission, Uttarakhand, H. No. 176, Azabpur Kala near Spring Hill School, Mothrowala Road, Dehradun- 248415.
11. Member- Secretary, Uttarakhand State Legal Services Authority, Nainital.
12. Presiding Officer, Labour Courts, Dehradun, Hardwar & Kashipur, District Udham Singh Nagar.
13. Presiding Officer, Industrial Tribunal-cum-Labour Court, Haldwani, District Nainital.
14. Presiding Officer, Food Safety Appellate Tribunal, Dehradun and Haldwani, District Nainital.
15. Registrar, Public Service Tribunal, District Dehradun.
16. Chairman, Cooperative Tribunal, Dehradun.
17. Registrar-cum-Secretary, State Police Complaint Authority, Dehradun.
18. Chairman, Permanent Lok Adalat, Dehradun, Haridwar, Nainital and Udham Singh Nagar.

C. L. No. 10 /UHC/Admin.A/2019

Dated: December 17, 2019.

Subject: Correspondence/communication with the High Court.

Sir,

In continuation of earlier Circular Letter No. 07/UHC-2002, Admin. Section, Dated April 24, 2002, on the subject 'Communication by Judicial Officers', I am directed to say that, directions issued in the said Circular Letter are not being complied with by most of the districts and the Hon'ble Court has taken a serious note of this, as non-compliance of the said directions, results into wastage of precious time of Registry and the Court.



C. L. No. 10 /UKC/Admin.A/2019 Dated: December 17, 2019.

-2-

2- Therefore, I am again directed to impress upon you that while submitting any type of correspondence to the Hon'ble Court on administrative side, it should be a practice that, the same be first examined at your level and after satisfying at your own level, same be sent to the Hon'ble Court, mentioning the applicable Rules/provisions, as the case may be, and along with your comments/opinion. Like-wise, with regard to medical reimbursement claims, it should be ascertained that claim is as per Rules and has been made within time and the same be sent to the Hon'ble Court along with your comments.

3- You are, therefore, requested to comply with the aforementioned directions of the Hon'ble Court strictly.

Notifications

HIGH COURT OF UTTARAKHAND, NAINITAL.

NOTIFICATION

No. 242/ UHC/VIII-(a/b)-2/Stationery

Dated: October 01, 2019

On account of Three Tier Panchayat Election-2019 in the State of Uttarakhand, the Subordinate Courts in the State shall remain closed U/s 25 of Negotiable Instrument Act 1881 (Act No. 26 of 1981) on the respective day of election in the block in which the concerned Court is Situated as per the Notification vide endorsement No. 1808/रा०नि०आ०अनु०-2/2668/2019 dated 13/09/2019 and corrected vide endorsement no. 1828/रा०नि०आ०अनु०-2/2668/2019 dated 14/09/2019 and Annexure 'A' and 'B' (copy enclosed).

By order of the Court

HIGH COURT OF UTTARAKHAND NAINITAL

NOTIFICATION

No. 243 /UHC/Admin.A/2019

Dated: Oct. 01, 2019.

In exercise of powers conferred by Sub Section (2) of Section 19 of the Bengal, Agra and Assam Civil Courts Act, 1887 (Act No. XII of 1887) [also applicable to the State of Uttarakhand] read with Government of Uttarakhand Notification No. 420-Ek (1)/XXXVI (1)/Nyay Anubhag/2005 dated 07.11.2005, the High Court is pleased to direct that the following 08 Civil Judge (Jr. Div.) batch-2016, posted in the State of Uttarakhand, shall have jurisdiction to try Civil Suits of pecuniary value not exceeding ₹ 1.00 Lac.

S.No.	Name of the Officer
1.	Ms. Poonam Todi
2.	Ms. Pallavi Gupta

3.	Ms. Urvashi Rawat
4.	Sri Shalender Kumar Yadav
5.	Ms. Chairav Batra
6.	Ms. Karishma Dangwal
7.	Ms. Tanuja Kashyap
8 .	Sri Manoj Singh Rana

By order of the Court

HIGH COURT OF UTTARAKHAND
NAINITAL
NOTIFICATION

No. 244 /UHC/Admin.A/2019

Dated: Oct. 01, 2019.

In exercise of powers conferred U/s 11(3) of the Code of Criminal Procedure 1973, following Judicial Officers of the rank of Civil Judge (Jr. Div.) batch-2016 are conferred with powers of Judicial Magistrate 1st Class to exercise these powers within the District where they remain posted.

S.No.	Name of the Officer
1.	Ms. Poonam Todi
2.	Ms. Pallavi Gupta
3.	Ms. Urvashi Rawat
4.	Sri Shalender Kumar Yadav
5.	Ms. Chairav Batra
6.	Ms. Karishma Dangwal
7.	Ms. Tanuja Kashyap
8.	Sri Manoj Singh Rana

By order of the Court,

HIGH COURT OF UTTARAKHAND AT NAINITAL**NOTIFICATION****No. 248/ UHC/Admin. A/2019****Dated : October 14, 2019**

In exercise of the powers conferred by Article 225 read with Article 235 of the Constitution of India and all other powers enabling in that behalf, the Court has been pleased to make the **following amendment in High Court Rules, 1952**, applicable to Uttarakhand under U.P. Reorganisation Act, 2000.

AMENDMENTS

Rule 10-A in Chapter XXII of the Rules of the Court, 1952 shall be inserted after Rule 10 as follows:

Rule 10-A: Time Period for implementation of orders:

In the absence of any time period prescribed by the Court for implementation of the direction or order made or the rule absolute issued by the Court, the same shall be implemented within two months of the receipt of the order.

This amendment will come into force with immediate effect.

By order of the Court**HIGH COURT OF UTTARAKHAND****NAINITAL****NOTIFICATION****No. 261/UHC/AdminA/2019****Dated: October 22 , 2019**

In exercise of the powers conferred by Rule 27(ii) of the Uttarakhand Higher Judicial Service Rules, 2004 and all other powers enabling in this behalf, the Hon'ble Court is pleased to grant the Super time Scale of Rs. 70,290-1,540-76,450 to the following officers, after completing 03 years of continuous service in the Selection Grade of H.J.S. Cadre, from the date mentioned against their names: -

S. No.	Name of the Officer	Date of grant of Super-time scale
1.	Sri Vivek Bharti Sharma	03.12.2018
2.	Sri Ashish Naithani	03.12.2018
3.	Sri C. P. Bijalwan	03.12.2018
4.	Sri Sikand Kumar Tyagi	11.04.2019
5.	Sri Pradeep Pant	27.05.2019
6.	Sri Hira Singh Bonal	01.08.2019

By order of the Court,

HIGH COURT OF UTTARAKHAND, NAINITAL
NOTIFICATION

No.296 /UHC/Stationery/2019

Dated: November 06, 2019

The Hon'ble High Court of Uttarakhand has been pleased to declare 23/12/2019 and 24/12/2019 (Monday & Tuesday) as holidays for the High Court of Uttarakhand. In lieu thereof, 07/12/2019 and 14/12/2019 (both Saturdays) shall be the Court Working day for the High Court.

By order of the Court

HIGH COURT OF UTTARA KHAND AT NAINITAL**NOTIFICATION****No.296-I/UHC/Admin. A/2019 Dated: November 06th/ 07th. 2019.**

In exercise of the powers conferred by Article 229 of the Constitution of India and all other powers enabling in that behalf, the Court has been pleased to make the following amendment in the Allahabad High Court Officers & Staffs (Conditions of Service and Conduct) Rules,1976, as applicable to High Court of Uttarakhand, Nainital under U.P. Reorganisation Act, 2000.

Amendments in Allahabad High Court Officers & Staff (Conditions of Service and Conduct)**Rules, 1976, as applicable to High Court of Uttarakhand, Nainital vide Section 30 of U.P. Reorganisation Act, 2000 is as follows :-**

Existing Rule	Amendment
<p>5. Academic qualification-</p> <p>(1) A candidate for recruitment to the post of peon and farrash must have passed Class V.</p> <p>(2) A candidate for recruitment to the post of liftman must have passed class V and must, to the satisfaction of the appointing authority, also possess requisite knowledge and experience of running a lift. Preference shall be given to a qualified electrician.</p> <p>(3) No. academic qualification is required for the posts of Coolie, Bhisti, Sweeper, Mali, Fireman and Chowkidar, but a literate person will be preferred.</p> <p>(4) A candidate for the post of Mali must possess requisite knowledge and experience of the work of a Mali.</p> <p>(5) Knowledge of cycling will be essential for the post of peon and it will be an additional qualification for all other posts.</p>	<p>5. Academic qualification & method of recruitment-</p> <p>(1) A candidate for recruitment to the posts mentioned in Rule 4(a) must have passed class 8th from a recognized Board/Institution.</p> <p>(2) For the Direct Recruitment, an objective type multiple choice OMR based examination shall be taken, which shall comprise of 100 questions of one mark each, from the subjects, such as, General Knowledge, General English, General Hindi, General Science, Maths, Knowledge about Uttarakhand. Standard of question paper shall be of Junior High School (8th level). There shall be no negative marking. Qualifying marks for a candidate belonging to General category shall be 50% and for a candidate belonging to Scheduled Castes, Scheduled Tribes & Other Backward Classes shall be 45%.</p> <p>(3) Direct Recruitment may be conducted by the High Court or by any authorized recruitment agency, as decided by the Chief Justice.</p>

This amendment will come into force with immediate effect.

By order of the Court

HIGH COURT OF UTTARA KHAND AT NAINITAL
NOTIFICATION

No.297/UHC/Admin. A/2019 Dated: November 06th / 07th , 2019.

In exercise of the powers conferred by Article 225 read with Article 235 of the Constitution of India and all other powers enabling in that behalf, the Court has been pleased to make the following amendment in High Court Rules,1952, applicable to Uttarakhand under U.P. Reorganisation Act, 2000.

AMENDMENTS

The existing Rule 11 of Chapter XXIV of the Rules of the Court, 1952 shall be substituted as follows:-

11. (1) The Chief Justice may prohibit any Advocate involved or engaging in strike or otherwise interfering with the Administration of Justice, from practicing in the High Court or any Court subordinate thereto and the District Judge may prohibit such an Advocate from appearing in his Judgeship for the period specified in the order, however, such an advocate aggrieved by the order of the District Judge may represent to the Chief Justice.

Explanation: Strike resorted to in any Court or abstention from work in Court, by way of protest by an Advocate or group of Advocates or any Bar Association shall be deemed to be an act, which tends to interfere with the Administration of Justice.

(2) The High Court, initiating proceedings for criminal contempt against an Advocate, may prohibit such an Advocate, from practicing in the High Court or in any Court subordinate thereto during the pendency of contempt proceedings against him.

(3) The High Court convicting an Advocate for criminal contempt may prohibit him from practicing in the High Court and any Court subordinate thereto, for the period specified in the order.

Provided that before passing an order of debarment, the Court shall put the concerned Advocate to notice of the proposed action.

(4) Notwithstanding the provisions of sub-rule (3), the Chief Justice may prohibit an Advocate found guilty of criminal contempt, from practicing in the High Court or any Court subordinate thereto and the District Judge, in like manner, may prohibit an Advocate from practicing in his Judgeship, for the period specified in the order.

(5) In the event, a Senior Advocate is prohibited from practice under any of the preceding sub-rules, his designation as Senior Advocate, shall be deemed to be suspended, from the date of the order, till the expiry of the period of prohibition prescribed.

Provided that the suspension of designation as Senior Advocate will not bar the High Court from cancelling his designation as Senior Advocate.

(6) The powers exercisable under sub-rules (2), (3) and (4) above, shall be in addition to the powers inherent in the High Court under the Contempt of Courts Act, 1971.

This amendment will come into force with immediate effect.

By order of the Court,

HIGH COURT OF UTTARAKHAND NAINITAL

NOTIFICATION/RETIREMENT

No. 298/UHC/Admin.A/2019

Dated: Nov. 08, 2019.

The Government of Uttarakhand has issued Notification/Retirement No. 422/XXX(4)/2019-04(9)/2019 dated 08.11.2019, regarding voluntary retirement of Sri Mithilesh Jha, Judge, Family Court, Tehri Garhwal with immediate effect. The said Notification/Retirement reads as under:

“श्री मिथिलेश झा, न्यायाधीश, पारिवारिक न्यायालय, टिहरी

गढ़वाल के स्वैच्छिक सेवानिवृत्ति स्वीकृत किये जाने विषयक प्रार्थना पत्र दिनांक 21.10. 2019 के क्रम में, महानिबन्धक, उत्तराखण्ड उच्च न्यायालय, नैनीताल के पत्र संख्या 7191/UHC/XIV-90/Admin.A/2003, दिनांक 06 नवम्बर, 2019 के माध्यम से प्रेषित मा0 उत्तराखण्ड उच्च न्यायालय की संस्तुति के आलोक में, शासन द्वारा सम्यक् विचारोपरान्त, वित्तीय हस्तपुस्तिका खण्ड-2 भाग 2 से 4 के अध्याय 9 सेवानिवृत्ति के मूल नियम 56(घ) (1) में प्रावधानित तीन माह के नोटिस अवधि में, मूल नियम 56 (घ) (2) के प्राविधान के तहत छूट प्रदान करते हुए, श्री मिथिलेश झा, न्यायाधीश, पारिवारिक न्यायालय, टिहरी गढ़वाल को तत्काल प्रभाव से स्वैच्छिक सेवानिवृत्ति प्रदान किये जाने की श्री राज्यपाल सहर्ष स्वीकृति प्रदान करते हैं।

राज्यपाल की आज्ञा से,

ह0/

(राधा रतूडी)

अपर मुख्य सचिव

Sd/-

Registrar General

HIGH COURT OF UTTARAKHAND, NAINITAL**NOTIFICATION****No.303 /UHC/VIII-(a/b)-2/2018/Stationery****Dated: November 21, 2019**

Pursuant to the Government Notification No. 999(1)/xxxi(15)G/19-31(सा0)/2015 dated 19th November, 2019, issued U/s 25 Negotiable Instrument Act, 1881 (Act of 26, 1881), The Hon'ble High Court of Uttarakhand has been pleased to declare 22/11/2019 (Friday) as holiday in the Subordinate Courts in Roorkee, District Hardwar on account of General Election-2019 of Nagar Nigam, Roorkee, District Hardwar.

By order of the Court**HIGH COURT OF UTTARAKHAND, NAINITAL****NOTIFICATION****No.305 /UHC/VIII-(a/b)-2/2018/Stationery****Dated: November 22, 2019**

Pursuant to the Government Notification No. 973(1)/xxxi(15)G/19-10(सा0)/2017 dated 07th November, 2019, issued U/s 25 Negotiable Instrument Act, 1881 (Act of 26, 1881), The Hon'ble High Court of Uttarakhand has been pleased to declare 25/11/2019 (Monday) as holiday in the Subordinate Courts falling under 44-Pithoragarh, Vidhan Sabha area, District Pithoragarh on account of Bye Election of 44-Pithoragarh, Vidhan Sabha.

By order of the Court

HIGH COURT OF UTTARAKHAND
NAINITAL

NOTIFICATION

No. 321/UHC/Admin.A/2019

Dated: Dec. 12, 2019.

In exercise of the powers vested under Section 11(2) of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the High Court is pleased to confer powers upon Sri Puneet Kumar, 5th Additional Chief Judicial Magistrate, Dehradun, to exercise jurisdiction in respect of areas of all the districts of Uttarakhand to try or enquire into all such cases arising out of offences punishable under the water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986, within the said area, in addition to his duties.

By order of the Court,

HIGH COURT OF UTTARAKHAND, NAINITAL

NOTIFICATION

No. 325 /UHC/Vigilance/2019

Dated: 21st December, 2019

THE UTTARAKHAND HIGH COURT VIGILANCE RULES, 2019

(Approved by the State Government vide letter no. 355/XXXVI(1)/2019-345/2019 dated 20.12.2019)

In order to provide more effective machinery for the prevention of corruption, to strengthen the Vigilance in Judiciary and to take appropriate action against the corrupt officers and officials in the establishment of High Court of Uttarakhand and in the State Judiciary, High Court of Uttarakhand, in exercise of the powers conferred under Article 235 of the Constitution of India, frame the following Rules:-

- 1.** These Rules shall be called “The Uttarakhand High Court Vigilance Rules, 2019.
- 2.** These Rules shall come into force with immediate effect.
- 3. Definitions:**

- (a) ‘High Court’ shall mean High Court of Uttarakhand, At – Nainital.
- (b) ‘Chief Justice’ shall mean Chief Justice of High Court of Uttarakhand.
- (c) ‘Administrative Judge’ shall mean Judge-Incharge of a District, as nominated by Hon’ble the Chief Justice.
- (d) ‘Subordinate Court’ shall mean subordinate courts in the State of Uttarakhand including Family Courts and all other Courts under the supervision of High Court of Uttarakhand.
- (e) ‘Judicial Officer’ shall mean all the judicial officers in the State of Uttarakhand subordinate to High Court of Uttarakhand, including all those judicial officers, who are posted on deputation for the time being.
- (f) ‘Officials’ shall mean all the staff in the establishment of High Court of Uttarakhand from the cadre of class-IV till Joint Registrar and of all the subordinate courts.
- (g) ‘Vigilance Cell’ shall mean vigilance cell in the High Court of Uttarakhand established under Rule 4.
4. (a) There shall be a Vigilance Cell in the High Court of Uttarakhand, which shall act as a separate Department of the High Court. Vigilance Cell shall work under the direct control and supervision of Hon’ble the Chief Justice.
- (b) The officers and staff of the Vigilance cell shall discharge such functions and duties as may be assigned to them from time to time by the Hon’ble Chief Justice.
- (c) Vigilance Cell shall maintain absolute confidentiality and shall not divulge any information in their possession, except on the specific directions of Hon’ble the Chief Justice.
5. Registrar (Vigilance) shall be overall in-charge of the Vigilance Cell, and shall work under the direct control and supervision of Hon’ble the Chief Justice.
6. (a) The Vigilance Cell shall comprise of two Sections as mentioned below.

Administrative Section: It shall comprise of the following:-

- (1) One Assistant Registrar
- (2) One Section Officer
- (3) One Assistant Review Officer
- (4) Stenographer (English)
- (5) Stenographer (Hindi)
- (6) One Peon

Investigation Section: It shall comprise of the following:-

- (1) One Vigilance Officer (of SSP/SP level, on deputation from police department, having minimum 8 years of service, preferably with experience in Vigilance/anti-corruption work/CID.
- (2) One Vigilance Officer (of Dy. SP level, on deputation from police department, having minimum 8 years of service, preferably with experience in Vigilance/anti-corruption work/CID.
- (3) Three Inspectors of Police having minimum 15 years of service, preferably with experience in Vigilance/anti-corruption work/CID.
- (4) Three Head Constables having minimum 10 years of service.
- (5) Six Constables with minimum 5 years of service.

(b) Deputation of Police Officers to the Vigilance Cell shall be decided by the Hon'ble Chief Justice from a panel of five names forwarded by the State Government.

(c) The Police Officers on deputation to the Vigilance Cell will have a tenure of 02 years, extendable by 01 more year. Any extension of their deputation will be at the discretion of the Hon'ble Chief Justice. However, if the conduct/performance of any Police Officer is found unsatisfactory, the High Court may revert him to his parent department, at any time.

7. Jurisdiction of Vigilance Cell: Vigilance Cell of the High Court shall have jurisdiction to deal with complaints received against judicial officers subordinate to the High Court, staff of the High Court and subordinate courts. Vigilance Cell may inquire into any matter brought to its notice through a complaint or otherwise or which may have come in its notice, in which, allegations of corruption, impropriety, misconduct, indiscipline or any conduct which shows lack of integrity, are made. Apart from that, it may inquire any other matter, on the specific directions of Hon'ble the Chief Justice.

8. Work profile of Vigilance Cell: Vigilance Cell shall perform the following works:

- (i) Process complaints.
- (ii) Make enquiries (discreet or preliminary) and investigations into cases of corruption, bribery, misconduct or any conduct which shows lack of integrity.
- (iii) Maintaining Annual Confidential Remarks of Judicial Officers.
- (iv) To issue vigilance clearance in the matter of Retirement/Promotion/Awarding of Selection Grade/Super- Time Scale/Passport/applying for deputation etc.
- (v) Scrutiny of statements furnished by judicial officers every year regarding movable & immovable property.
- (vi) Maintaining record of final disciplinary enquiries, and place the status before Hon'ble Chief Justice from time to time.
- (vii) Monitoring of any prosecution launched in the course of any vigilance enquiry before a Court of Law.
- (viii) Any other work assigned by Hon'ble the Chief Justice.

9. Procedure to be adopted by the Vigilance Cell:

(i) Vigilance Cell, on receiving information/complaint through any mode, shall reduce the same into writing, if not made in writing and shall register it in the manner as prescribed hereinafter.

(a) Three Complaint Registers (one for judicial officers, second for staff of High Court and third for staff of subordinate courts) shall be maintained by the Vigilance Cell, in which, on the first page, a certificate shall be given that this register contains so many pages. Each page of the register shall be numbered. The Certificate shall be signed by the Registrar (Vigilance).

(b) Every information/complaint shall be given a number in the form s.no.- I/II/III(Register)/UHC/Vigilance/ year.

(c) Existing data shall be maintained with the same number given to it.

(d) A computerized Database shall be prepared, which shall contain the following information with respect to all the judicial officers:

(i) Name of the Judicial officer

(ii) Date of Birth and Home Town

(iii) Place of postings, where the officer remained posted along with current posting and duration of postings.

(iv) Annual Confidential Remarks along with the integrity report.

(v) Complaints received against the officer, in which, the number of the complaint, name of complainant, action taken on the complaint and date of filing of complaint shall be mentioned.

(vi) All existing data shall be entered in the Database.

(e) Two Guard Files (A & B) shall be maintained in the Vigilance Cell. In first guard file (A), particulars of all the Registers and all the orders relating to vigilance cell shall be pasted. In second guard file (B), other orders, copies of which, are received in vigilance cell, shall be pasted.

(f) One folder/file shall be maintained for each judicial officer and all complaints/information received against a judicial officer shall be placed in a single file. Index in each file shall be properly maintained.

(g) In case, final disciplinary inquiry is conducted in any matter, copy of complete record upto the stage of orders for final disciplinary inquiry, shall be prepared, which will be kept in the vigilance cell, and the original file shall be handover to the Inquiry Officer.

(ii) After registration, the complaints received against the judicial officers and the staff of the High Court shall be placed before Hon'ble the Chief Justice and complaints received against staff of subordinate courts shall first be placed before the Administrative Judge of the district concerned, and thereafter before Hon'ble the Chief Justice along with their opinion/recommendation, for orders.

- (iii)** Further action on the complaint shall be taken on the directions of Hon'ble the Chief Justice.
- (iv)** If it appears that a trap be laid in a matter of corruption, Registrar (Vigilance) shall, with the previous approval of the Chief Justice, direct the Superintendent of Police and, thereafter, Superintendent of Police shall do the needful as per prescribed procedure.
- (v)** Copy of every complaint routed through the District Judge, or comments sought from the district, shall be kept in the concerned district and an endorsement of this fact shall be mentioned in the correspondence made with the High Court that the said complaint/comments has been entered at s.no/register no. along with a copy of the same.
- (vi)** Complaints making allegations against members of the subordinate judiciary, if not accompanied by a duly sworn affidavit and/or verifiable material, shall be lodged. Nothing mentioned hereinbefore shall preclude action being taken on any complaint even if it is an anonymous/pseudonymous one, if on a discreet inquiry or verification of contents, undertaken with the approval of Hon'ble the Chief Justice, it is considered necessary that action be taken.
- (vii)** Complaints making allegations purely in connection with a judicial order passed by a court, shall be filed/lodged without taking any steps thereon.
- (viii)** All outcomes pertaining to enquiries, on the complaints received or investigations (including laying of traps) shall be forwarded by the Superintendent of Police to the Registrar (Vigilance).
- (ix)** No trap shall be laid except under the specific directions from Hon'ble the Chief Justice.
- (x)** The Superintendent of Police will be responsible for assigning duties to the officers under him, with respect to the functions pertaining to the Vigilance Cell.
- (xi)** The Registrar (Vigilance) will scrutinize the Performance Appraisal Reports of the Police Officers in the Vigilance Cell and sign them.
- (xii)** Complaints received against Advocates shall be forwarded to the concerned State Bar Council for further action.
- (xiii)** Other complaints, which are outside the purview of the Vigilance Cell will either be returned to the sender or to the other Authorities concerned. If it is not possible to return them for want of sufficient details, they shall be closed.
- (xiv)** Complaints containing allegations, other than of corruption, will be forwarded to the Registry for further action.

(xv) All matters of the Vigilance Cell shall be placed before Hon'ble the Chief Justice through the Registrar (Vigilance), except when the matter pertains to the Registrar (Vigilance) himself.

10. Assistance by other authorities: All the authorities in the State whether administrative/police/revenue shall cooperate and provide required assistance in vigilance matters on a request made by the Registrar (Vigilance).

11. In making a discreet enquiry, Registrar (Vigilance) or any other officer deputed by him, shall proceed to the place and make such enquiry as he deems fit, without recording any statement in writing, and prepare his confidential report.

12. If the discreet enquiry is made by any officer, other than Registrar (Vigilance), he shall submit his report to the Registrar (Vigilance), who shall study the same, prepare his report and submit it to Hon'ble the Chief Justice.

13. In conducting a preliminary enquiry, the Registrar (Vigilance) or any other officer deputed by him, shall proceed to the place and record the statements of such persons, who can throw light on the allegations made in the complaint, and shall submit his report to the Chief Justice.

14. Residuary powers of Hon'ble the Chief Justice: Nothing contained hereinbefore shall preclude Hon'ble the Chief Justice for making any order or issue any directions for the administration of justice, and to give effect to the provisions of these Rules or for effective implementation of these Rules or for such matters, for which, no specific provision has been made.

By order of the Court,

INSTITUTION, DISPOSAL AND PENDENCY OF CASES

➤ HIGH COURT OF UTTARAKHAND (From 01.10.2019 to 31.12.2019)

						Pendency (As on 01.10.2019)		
						Civil Cases	Criminal Cases	Total Pendency
						21640	12418	34058
Institution (01.10.2019 to 31.12.2019))			Disposal (01.10.2019 to 31.12.2019)			Pendency (As on 31.12.2019)		
Civil Cases	Crimin al Cases	Total Institution	Civil Cases	Criminal Cases	Total Disposal	Civil Cases	Criminal Cases	Total Pendency at the end of 31.12.2019
2459	2643	5102	1839	1914	3753	22260	13147	35407

District Courts

(From 01.10.2019 to 31.12.2019)

SL. No	Name of the District	Civil Cases				Criminal Cases				Total Pendency at the end of 31.12.2019
		Opening Balance as on 01.10.19	Institution from 01.10.19 to 31.12.19	Disposal from 01.10.19 to 31.12.19	Pendency at the end of 31.12.2019	Opening Balance as on 01.10.19	Institution from 01.10.19 to 31.12.19	Disposal from 01.10.19 to 31.12.19	Pendency at the end of 31.12.19	
1.	Almora	317	96	101	312	763	1111	1030	844	1156
2.	Bageshwar	116	39	39	116	292	513	480	325	441
3.	Chamoli	309	80	107	282	752	389	389	752	1034
4.	Champawat	183	59	48	194	816	1093	821	1088	1282
5.	Dehradun	11247	3731	3948	11030	57943	18383	13049	63277	74307
6.	Haridwar	9894	1549	1533	9910	44190	15211	15071	44330	54240
7.	Nainital	2202	483	506	2179	12812	6915	6257	13470	15649
8.	Pauri Garhwal	955	242	233	964	2758	1294	1270	2782	3746
9.	Pithoragarh	480	122	131	471	1091	917	764	1244	1715
10.	Rudraprayag	99	79	84	94	353	226	301	278	372
11.	Tehri Garhwal	307	106	99	314	1490	1112	767	1835	2149
12.	Udham Singh Nagar	5118	1001	1082	5037	32219	8288	7907	32600	37637
13.	Uttarkashi	528	157	174	511	1003	383	344	1042	1553
	Total	31755	7744	8085	31414	156482	55835	48450	163867	195281

Family Courts**(From 01.10.2019 to 31.12.2019)**

SL. No	Name of the Family Court	Civil Cases				Criminal Cases				Total Pendency at the end of 31.12.19
		Opening Balance as on 01.10.19	Institution from 01.10.19 to 31.12.19	Disposal from 01.10.19 to 31.12.19	Pendency at the end of 31.12.19	Opening Balance as on 01.10.19	Institution from 01.10.19 to 31.12.19	Disposal from 01.10.19 to 31.12.19	Pendency at the end of 31.12.2019	
1.	Almora	69	34	34	69	74	25	18	81	150
2.	Dehradun	1696	507	552	1651	915	267	282	900	2551
3.	Rishikesh	264	58	46	276	217	27	39	205	481
4.	Vikasnagar	132	35	40	127	205	44	41	208	335
5.	Nainital	199	61	68	192	292	46	56	282	474
6.	Haldwani	470	76	64	482	741	107	121	727	1209
7.	Haridwar	672	159	197	634	718	163	156	725	1359
8.	Roorkee	656	131	149	638	753	140	96	797	1435
9.	Laksar	86	53	63	76	115	35	40	110	186
10.	Kotdwar	281	56	75	262	345	61	56	350	612
11.	Pauri Garhwal	105	17	31	91	94	28	38	84	175
12.	Tehri Garhwal	76	35	43	68	36	10	10	36	104
13.	U.S.Nagar	380	127	102	405	530	86	85	531	936
14.	Kashipur	456	89	137	408	468	69	76	461	869
15.	Khatima	153	58	57	154	195	35	38	192	346
	Total	5695	1496	1658	5533	5698	1143	1152	5689	11222

Division Bench Judgments

1. ***In SPA No. 22 of 2013, State of Uttarakhand through Principal Secretary, Forest and others vs. Birendra Dutt Badola and others along with four connected matters***, decided on 17.10.2019, the Bench observed that it is well settled that no order of regularisation can be passed contrary to the statutory rules or the rules made under the proviso to Article 309 of the Constitution of India. Regularisation is not a mode of appointment. The words 'regular' or 'regularisation' do not connote permanence. They are terms calculated to condone any procedural irregularities, and are meant to cure only such defects as are attributable to the methodology followed in making the appointments. If the appointment itself is in infraction of the rules, or if it is in violation of the provisions of the Constitution, illegality cannot be regularised. Ratification or regularisation is possible of an act which is within the power and province of the authority, but there has been some non-compliance with procedure or manner which does not go to the root of the appointment. Regularisation cannot be said to be a mode of recruitment. To accede to such a proposition would be to introduce a new head of appointment in defiance of the rules or it may have the effect of setting at naught the rules. . Courts cannot encourage appointments which are made outside the constitutional scheme, and it is improper for Courts to give any direction for regularisation of the person who has not been appointed by following the procedure laid down under Articles 14, 16 and 309 of the Constitution. In our constitutional scheme, there is no room for back.
2. ***In Writ Petition (PIL) No. 21 of 2019 Vipul Jain Vs State of Uttarakhand and Writ Petition (PIL) No. 133 of 2019 Ashirvad Goswami Vs. State of Uttarakhand and another***, decided on 17.10.2019, the Bench has issued following directions to the State Election Commission and to the officials working under its control :-
 1. Among the basic features of the Constitution is the principle of free and fair elections. The obligation to hold free and fair elections for Panchayati Raj

- Institutions is entrusted, by the Constitution, to the State Election Commission.
2. The purity of elections is fundamental to democracy, and the State Election Commission can and should take action to maintain its purity, and in particular to bring transparency in the process of elections.
 3. The jurisdiction of the High Court, under Article 226 of the Constitution of India, can be invoked in cases where the State Election Commission fails to discharge its constitutional obligation to hold free and fair elections.
 4. The High Court has the power to issue necessary directions, in cases where a constitutional or a public authority fails to discharge its constitutional obligations, of holding free and fair elections, or to exercise the discretion conferred upon it under the Constitution and the laws.
 5. The High Court has the power, by the prerogative writ of mandamus, to amend all errors which tend to the oppression of the subject or other mis-governance.
 6. The High Court cannot, however, give any direction to the State Election Commission contrary to Part IX of the Constitution, or the 2016 Act and the Rules made thereunder.
 7. Besides directions, which are contrary to Part-IX of the Constitution or the 2016 Act or the Rules made thereunder, the High Court would also refrain from issuing any directions to the State Election Commission which may impede elections being held within time.
 8. However, in areas where the 2016 Act and the Rules are silent, the High Court can issue directions to the State Election Commission to fill up the vacuum till a suitable legislation is made.
 9. Where the field is unoccupied, the State Election Commission has the power to issue necessary directions, and the High Court would have the power to direct the State Election Commission to fill the void, in the absence of suitable legislation covering the field.
 10. Where the State Election Commission fails to prevent electoral mal-practices which vitiate the process of free and fair elections, the High Court must, in

the exercise of its constitutional powers under Article 226 of the Constitution, step in to ensure that the State Election Commission discharges its constitutional obligations of holding free and fair elections.

11. As guidelines were issued nearly 17 years ago on 01.01.2003, fresh guidelines may be required to be issued by the State Election Commission to check newly emerging corrupt practices, including different forms of horse-trading, use of money and muscle power etc.
12. Non-receipt of complaints, regarding corrupt electoral practises, by the State Election Commission is due to lack of public awareness of the duty of citizens to bring such electoral malpractices to its notice, or because such complaints are not forwarded to the State Election Commission by the electoral officers in the field.
13. Necessary guidelines should be issued, and wide publicity given, regarding the names and designations of election officials to whom the general public may complain if corrupt electoral practices come to their notice.
14. The State Election Commission should also consider framing guidelines regarding the nature of action the officials, to whom such complaints are addressed, should take.
15. The State Election Commission should inform candidates, contesting elections to the offices of Block Pramukh and Zila Adhyaksh, in writing of its power, in case it is satisfied that the election process is vitiated by electoral malpractices, to postpone the elections till it is able to ensure free and fair elections, or to countermand the elections, and to hold elections afresh.
16. Stringent action being taken by the State Election Commission, exercising its powers to the fullest extent, would deter candidates, contesting for these offices, from indulging in such corrupt practices of horse-trading, and use of money and muscle power to garner votes for election to such offices.

17. The State Election Commission should adopt a pro-active approach in discharging its constitutional obligations of ensuring a free and fair election, and to curb corrupt electoral practices.
18. Instead of waiting for receipt of a written complaint for it to act, the State Election Commission should treat information, from whatever be the source (including newspaper reports), as complaints which necessitate further inquiry.
19. If letters and newspapers reports can form the basis for Superior Courts to entertain Writ Petitions, there is no reason why newspaper reports should not be treated as complaints by the State Election Commission, and the allegations made therein promptly inquired into.
20. If, on such inquiry, it is found that the complaints are true, the State Election Commission should take action forthwith to nip the corrupt electoral practices in the bud.
21. All men and machinery involved in the election process, including the District Magistrates and the District Superintendents of Police, function under the overall control of the State Election Commission, for the discharge of their election duties, till the entire election process is completed.
22. Any complaint received by the District Magistrates and the District Superintendents of Police should not only be forwarded to the State Election Commission forthwith, but immediate action should also be taken at their end to enquire into the allegations made in the complaints.
23. If the allegations are found to have some basis, immediate action, including lodging an FIR against the accused under the IPC, should be taken, and a report should be submitted by them to the State Election Commission.
24. On receipt of such a report, the State Election Commission should consider whether the contents of the report warrant drastic action being taken to postpone the election process, or even to cancel the elections itself.
25. For such corrupt practices to be curbed, active involvement of the general public is essential. It is the responsibility of each citizen, on coming to know of such illegal acts, to bring such corrupt practices to the notice of the

concerned District Magistrate, other District Electoral Officers, Police officers and the State Election Commission.

26. Malpractices relating to foreign jaunts or paid holidays to voters, both within the State and elsewhere in the country, can be easily curbed by the State Election Commission asking the candidates to submit information regarding the source of funds for their travel to, and their stay in, such exotic locations.
27. As travelling abroad would require an endorsement on the passport, any complaint, regarding foreign travel of BDC members and Zila Panchayat members, can be easily verified from their passports.
28. Details of travel by these members to holiday resorts/destinations, within the country or to Nepal, can also be ascertained with a little more effort.
29. The State Election Commission has the power to interfere with the election process if it is found to have been manipulated including, if need be, by cancellation of the election itself.
30. If the conditions, for the conduct of free and fair elections, are not conducive because of breakdown of law and order, or such other factors, that, in the opinion of the District Magistrate and the State Election Commission, prevent the voters from choosing their candidates in a free and fair manner, the State Election Commission may postpone elections for a reasonable period.
31. If a situation arises whereby serious mal-practices have affected the purity of the electoral process, the State Election Commission has the power to cancel the election itself.
32. In case the State Election Commission fails to take action on their complaints, regarding electoral malpractices on the eve of elections, it is open to the complainant to invoke the jurisdiction of the High Court under Article 226 of the Constitution of India.
33. Suggestions made for ensuring free and fair elections, and to maintain the purity and sanctity of the election process, should be considered by the State Election Commission.

34. The State Election Commission shall consider the suggestions put forth in these writ petitions, as noted earlier in this order, regarding reduction of the time gap between the declaration of results in direct elections, and the date of election to the offices of Block Pramukh and Zila Adhyaksh, to the barest minimum to rid the election process of this plague of horse-trading, and blatant use of money and muscle-power to lure/browbeat voters to submission.
3. ***In Criminal Reference No. 1 of 2016, State of Uttarakhand vs. Akhtar Ali @ Ali Akhtar @ Shamim @ Raja Ustad along with four connected matters***, decided on 18.10.2019, the Court observed that undoubtedly, the trial judge has immense power under Section 165 of the Indian Evidence Act, 1872 to question a witness, which definitely, he should actively engage, while an expert is being examined. If prosecution at any stage, fails to elaborate the proficiency or methodology adopted by the expert, the trial judge should not be a moot spectator, during the trial. He should also not very proactive, but, act in a balanced manner so as to elicit the truth. In the cases when an expert, who has submitted DNA examination report is examined, justice demands that the Court should satisfy itself with the processes involved, methodology adopted and do and don'ts attached with the processes. when DNA report is produced. First and foremost it has to be ensured that the expert is examined in the court to explain the report. In such cases, if prosecution does not place on record, the requisite information relating to the expert report, the Court should, in order to satisfy itself about the accuracy of the DNA report, may also get the following information, by questioning the expert.

Is the expert, in fact, an expert? His educational qualification and training experience in the relevant field? Even if, it is in a little detail, it should be recorded.

- (i) How was it ensured that the samples were intact and not degraded for conducting the test?
- (ii) The available methodology for conducting the test? The advantage and disadvantage of each one of them?

(iii) Why a particular method was followed by the expert? Its advantages?

(iv) What were the chances of contamination? And, how it was ensured that the samples are contamination free? What processes were adopted to ensure it?

What precautions were required to be taken in the examination? How was it ensured?

4. ***In SPA No. 97 of 2019, Ruchi Kandpal vs. State of Uttarakhand and ors.*** , decided on 07.11.2019, the bench observed that vacancies cannot be filled up over and above the number of vacancies advertised as "recruitment of candidates in excess of the notified vacancies is a denial and deprivation of the constitutional right under Article 14 read with Article 16(1) of the Constitution", of those persons who acquired eligibility for the post in question, in accordance with the statutory rules, subsequent to the date of notification of vacancies. Filling up vacancies, over and above those notified, is neither permissible nor desirable, as it amounts to "improper exercise of power. Only in rare and exceptional circumstances, and in an emergent situation, can such a rule be deviated, and such a deviation is permissible only after adopting a policy decision based on some rational", otherwise the exercise would be arbitrary. While the order of the learned Single Judge, in Writ Petition (S/S) No. 2339 of 2016 dated 07.01.2017, undoubtedly necessitates compliance, and both the State Government and the Uttarakhand Subordinate Service Selection Commission have failed to discharge their obligations to comply with the directions of this Court in the aforesaid judgment, what we are called upon to examine is what can be done at this belated stage when almost all the advertised 153 posts (other than the 20 posts yet to be filled up) have been filled up by selecting candidates in their order of merit. Accepting the appellant-writ petitioner's contention that the 151 carried forward posts should be filled-up only from those who participated in the 2017 selection process, would result in the law declared by the Supreme Court in the aforesaid judgments being flouted, for it is not possible for an errata to be now issued, to the advertisement dated 03.01.2017, at this belated stage when the selection process has been completed, and most of the advertised 153 posts have already been filled up.

5. ***In SPA No. 990 of 2019, Bhav Singh vs. State of Uttarakhand and others***, decided on 25.11.2019, the Court observed the Government cannot act in a manner which would benefit a party at the cost of the State; such an action would be both unreasonable and contrary to public interest. The Government, therefore, cannot give a contract for a consideration less than the highest that can be obtained for it, unless of course there are other considerations which render it reasonable and in public interest to do so. It is on a total evaluation of various considerations which have weighed with the Government in taking a particular action, that the Court should decide whether the action of the Government is reasonable and in public interest. Where the object is augmentation of revenue and nothing else, the State is under an obligation to secure the best market price. In such matters there should not be any suspicion of a lack of principle. The rule that property should be purchased/sold through public auction or by inviting tenders not only secures the best price but also ensures fairness in the activities of the State and public authorities. Their actions should be legitimate and above board. Their transactions should be without aversion or affection. Nothing should be suggestive of discrimination. Nothing should be done by them which gives an impression of bias, favouritism or nepotism. Ordinarily, these factors would be absent if the matter is brought to public auction. There may be situations necessitating a departure from the rule, but then such instances must be justified by compulsion and not by compromise. It must be justified by compelling reasons and not just by convenience.
6. ***In CRLA No. 110 of 2013, Satyadev vs. State of Uttarakhand along with connected matter***, decided on 02.12.2019, the Court observed that the examination of the witness is regulated by the provisions of Indian Evidence Act, 1872. According to Section 138 of the Indian Evidence Act, 1872, witness shall be first examined-in-chief, then (if the adverse party so desires) cross-examined, then if the party calling him so desires is reexamined. The statement of a witness in cross examination, without examination-in-chief having been recorded, is not complete examination of the witnesses. Such statement cannot be read into evidence.

7. *In WP(S/B) No. 121 of 2019, Yagya Bhushan Sharma vs. Chancellor Doon University Uttarakhand, Dehradun and ors.*, decided on 03.12.2019, the Court observed that in quo-warranto proceedings, judicial review is concerned with the question whether the incumbent possessed the qualification for appointment, and whether the manner in which the appointment came to be made, or the procedure adopted, was fair, just and reasonable, and whether the selection was as per law and procedure. Judicial review, for the purpose of issuance of a writ of quo-warranto, would lie: (a) in the event the holder of a public office was not eligible for appointment; and (b) processual machinery relating to consultation was not fully complied.

Quo warranto proceedings afford a judicial remedy by which any person, who holds an independent substantive public office or franchise or liberty, is called upon to show by what right he holds the said office, franchise or liberty, so that his title to it may be duly determined, and in case the finding is that the holder of the office has no title, he would be ousted from that office by a judicial order. In other words, the procedure of quo warranto gives the judiciary a weapon to control the executive from making appointment to public office against the law, and to protect a citizen from being deprived of the public office to which he has a right. These proceedings also tend to protect the public from usurpers of public office who may have been allowed to continue either with the connivance of the executive or by reason of its apathy. Before a person can effectively claim a writ of quo warranto, he has to satisfy the court that the office in question is a public office and is held by a usurper without legal authority, and that inevitably would lead to an enquiry as to whether the appointment of the alleged usurper has been made in accordance with law or not. For issuance of a writ of quo warranto, the Court should be satisfied that the appointment is contrary to the statutory rules, and the person holding the post has no right to hold it. The jurisdiction of the High Court to issue a Writ of Quo-Warranto is limited. While issuing such a writ, the Court merely makes an order of declaration and would not consider its impact or other factors which may be relevant for issuance of a writ of Certiorari. An information, in the nature of a quo-

warranto, lies against a person who has usurped an office to enquire by what authority he supported his claim in order that the right to the office might be determined. In some cases persons not entitled to a public office may have been allowed to occupy them, and to continue to hold them, as a result of the connivance of the executive or with its active help and if, in such cases, the jurisdiction of the Courts to issue a writ of quo-warranto is properly invoked, the usurper can be ousted and the person entitled to the post allowed to occupy it. A writ of quo-warranto is issued to prevent a continued exercise of unlawful authority.

8. ***In SPA No. 960 of 2018, Amrish Kumar Agrawal vs. Bar Council of Uttarakhand and another***, decided on 07.12.2019, the Court observed that while we find this explanation wholly unsatisfactory, for nothing prevented the State Bar Council from exercising its powers both under the Advocate Act, 1961 and under the Advocate Welfare Fund Act, 2001, and it does appear to us that the State Bar Council has conveniently refrained from taking any action on this specious plea, we refrain from saying anything more except to express our hope that the State Bar Council will act promptly in future to ensure that the District Associations in the State, including the Kashipur Bar Association, do not act whimsically. In view of Section 21 of the General Clauses Act, 1897, the power conferred on the State Bar Council under Section 16(4), to issue a certificate of recognition, would include the power to rescind the certificate issued by them, which power they can exercise in exceptional circumstances. We may not be understood to have held that the Uttarakhand State Bar Council should rescind the certificate of recognition issued earlier to the Kashipur Bar Association. We merely remind the Uttarakhand State Bar Council of its powers to control recalcitrant Bar Associations which flout the law, and indulge in acts which affects the rights of advocates to appear on behalf of an accused, as also the fundamental right of the accused to be defended by a lawyer of his choice.
9. ***In FA No. 118 of 2012, Sri Sanjeev Khugshal vs. Smt. Parul @ Parinita***, decided on 10.12.2019, the Court observed that in order to be a wrong within the meaning of section 23(1) the conduct alleged has to be something more than a mere

disinclination to agree to an offer of reunion, it must be misconduct serious enough to justify denial of the relief to which the husband or the wife is otherwise entitled. The decision cannot be read to be laying down a general principle that the petitioner in an application for divorce is entitled to the relief merely on establishing the existence of the ground pleaded by him or her in support of the relief; nor that the decision lays down the principle that the Court has no discretion to decline relief to the petitioner in a case where the fulfillment of the ground pleaded by him or her is established. On a fair reading of the sub-section (2) it is clear that the provision applies to the petitioner on whose application the decree for judicial separation has been passed. Even assuming that the provision extends to both petitioner as well as the respondent it does not vest any absolute right in the petitioner or the respondent not to make any attempt for cohabitation with the other party after the decree for judicial separation has been passed. As the provision clearly provides the decree for judicial separation is not final in the sense that it is irreversible; power is vested in the Court to rescind the decree if it considers it just and reasonable to do so on an application by either party. The effect of the decree is that certain mutual rights and obligations arising from the marriage are as it were suspended and the rights and duties prescribed in the decree are substituted therefor. The decree for judicial separation does not sever or dissolve the marriage tie which continues to subsist. It affords an opportunity to the spouse for reconciliation and re-adjustment. The decree may fall by a conciliation of the parties in which case the rights of respective parties which float from the marriage and were suspended are restored. Therefore the impression that section 10(2) vests a right in the petitioner to get the decree of divorce notwithstanding the fact that he has not made any attempt for cohabitation with the respondent and has even acted in a manner to thwart any move for cohabitation does not flow from a reasonable interpretation of the statutory provisions. At the cost of repetition it may be stated here that the object and purpose of the Act is to maintain the marital relationship between the spouses and not to encourage snapping of such relationship. Appellant is categorical that he never visited the respondent. He never tried to make any attempt for resuming the cohabitation

and what is being argued on behalf of the appellant is that the appellant is not under obligation to resume cohabitation after the decree of judicial separation passed in the former suit. The appellant did not make any attempt to cohabit. It would be a wrong under Section 23 of the Act and appellant cannot take advantage of it. Therefore, this Court is of the view that since after decree of judicial separation, passed in the former divorce suit, the appellant did not make any efforts for resuming cohabitation, it amounts to a wrong under Section 23 of the Act. It is a valid ground for refusal of grant of decree of divorce.

10. *In WP (S/B) No. 457 of 2015, Anil Kumar vs. Uttarakhand Public Services Tribunal, Dehradun and ors.*, decided on 14.12.2019, the Bench observed that it must be borne in mind that an order, even if not made in good faith, is still capable of legal consequences. Unless the necessary proceedings are taken at law to establish the cause of invalidity, and to get it quashed or otherwise upset, it will remain as effective for its ostensible purpose as the most impeccable of orders. This is equally true even where the brand of invalidity is plainly visible: for there also the order can effectively be resisted in law only by obtaining the decision of the court.
11. *In WP (S/B) No. 324 of 2011, Rajeev Agarwal vs. State of Uttarakhand and others*, decided on 17.12.2019, the Bench observed that a department enquiry, conducted against the delinquent, is not a casual exercise. The enquiry proceedings cannot be conducted with a closed mind, and the rules of natural justice should be observed. The rules of natural justice should be complied with to ensure that the delinquent is treated fairly in proceedings which may culminate in the imposition of a punishment, including dismissal/removal from service. It is true that the delinquent employee should be afforded a reasonable opportunity to defend himself against the charges, on the basis of which the inquiry is held. He should be given an opportunity to deny his guilt, and establish his innocence. A person, who is required to answer the charge, must know not only the accusation, but also the testimony by which the accusation is supported. He must be given a fair chance to hear the evidence in support of the charge, and to put relevant questions by way of cross-

examination. He must then be given a chance to rebut the evidence led against him. This requirement must be substantially fulfilled if the result of the enquiry can be accepted. The rules of natural justice require that a party must be given the opportunity to adduce all relevant evidence upon which he relies, the evidence of the opposite party should be taken in his presence, and he should be given the opportunity of cross-examining the witnesses examined by that party. When a charge sheet is given to the employee, ordinarily an oral enquiry must be held, whether the employee requests for it or not. A notice should be issued to him indicating the date, time and place of the enquiry. On that date, the oral and documentary evidence against the employee should be led in his presence. The charge sheeted employee should not only know the charges against him, but should also know the evidence against him, so that he can properly reply thereto. The factors which the Court should keep in mind, in the event the findings arrived at in the departmental proceedings are questioned before it, are the following:

- (1) The enquiry officer is not permitted to collect any material from outside sources during the conduct of the enquiry.
- (2) In a domestic enquiry, fairness in the procedure is a part of the principles of natural justice.
- (3) Exercise of discretionary power involves two elements
 - (i) Objective and
 - (ii) subjective, and existence of an objective element is a condition precedent for exercise of the subjective element.
- (4) It is not possible to lay down any rigid rules of principles of natural justice, application of which depends on the facts and circumstances of each case, but the concept of fair play in action is the basis.
- (5) The enquiry officer is not permitted to travel beyond the charges, and imposition of punishment on the basis of a finding which was not the subject matter of the charges is illegal.
- (6) Suspicion or presumption cannot take the place of proof even in a domestic enquiry. The writ court is entitled to interfere with the findings of fact, recorded

by a tribunal or authority, if they are perverse or are based on no evidence.

It is further observed that ordinarily the rule is that the employer must adduce his evidence first; the reason for this principle is that the charge-sheeted employee should not only know the charges against him, but should also know the evidence against him, so that he can properly reply to the same; where no witnesses were examined and no exhibit or record is made, and straightaway the employee was asked to produce his evidence and documents in support of his case, it is illegal. Ordinarily the statement of all witnesses of the employer should be recorded in the presence of the employee unless there are compelling reasons to act otherwise and if the witnesses are examined in the absence of the employee, and their recorded statements are also not supplied to him, the procedure is illegal. On the question of waiver, a distinction should be made between cases where the provision is intended for individual benefit and where a provision is intended to protect public interest. The former can be waived, but the latter cannot. There may be certain procedural provisions which are of a fundamental character, whose violation is, by itself, proof of prejudice. The Court may not insist on proof of prejudice in such cases. The test is one of prejudice, i.e., whether the person has received a fair hearing considering all things. In the case of a procedural provision, which is not of a mandatory character, the complaint of violation should be examined from the stand-point of substantial compliance. An order passed in violation of such a provision may be set aside only where such violation has occasioned prejudice to the delinquent employee. The Court or the Tribunal should enquire whether (a) the provision violated is of a substantive nature or (b) whether it is procedural in character. A substantive provision should, normally, be complied with, and the theory of substantial compliance or the test of prejudice would not be applicable in such a case. In the case of violation of a procedural provision, the position is this: procedural provisions are generally meant for affording a reasonable and adequate opportunity to the delinquent officer/employee. They are, generally speaking, conceived in his interest. In the case of violation of a procedural provision, which is of a mandatory character, it should be ascertained

whether the provision is conceived in the interest of the person proceeded against or is in the public interest. If it is found to be the former, then it must be ascertained whether the delinquent officer has waived the said requirement, either expressly or by his conduct. If he is found to have waived it, then the order of punishment cannot be set aside on the ground of the said violation. If, on the other hand, it is found that the delinquent officer/employee has not waived it or that the provision cannot be waived by him, then the Court or Tribunal should make appropriate directions (including the setting aside of the order of punishment), keeping in mind the test of prejudice or the test of fair hearing. Natural justice is no unruly horse, no lurking landmine, nor a judicial cure-all. If fairness is shown by the decision-maker to the man proceeded against, the form, features and the fundamentals of such essential processual propriety being conditioned by the facts and circumstances of each situation, no breach of natural justice can be complained of. Unnatural expansion of natural justice, without reference to administrative realities and other factors of a given case, can be exasperating. The Court should neither be finical nor fanatical but should be flexible yet firm in this jurisdiction. No man shall be hit below the belt — that is the conscience of the matter. The Court cannot look at the law in the abstract, or natural justice as a mere artifact. Nor can the Court fit into a rigid mould the concept of reasonable opportunity. Principles of natural justice can neither be reduced to any hard- and-fast formulae nor can they be put in a straitjacket. Their applicability depends upon the context, and the facts and circumstances of each case. The objective is to ensure a fair hearing and a fair deal to the person whose rights would be affected. The applicability of the principles of natural justice is not a rule of thumb or an abstract proposition of law. It depends on the facts of the case, nature of the inquiry, the effect of the order/decision on the rights of the person, and other attendant circumstances. The application of the principles of natural justice, resting as it does upon statutory implications, must always be in conformity with the scheme of the Act and with the subject-matter of the case. Where the obligation is to observe principles of natural justice -- or, for that matter, wherever such principles are held to be implied by the very nature and impact of the order/action -- the Court

should make a distinction between a total violation of natural justice (rule of audi alteram partem), and violation of a facet of the said rule. A distinction must be made between “no opportunity” and no adequate opportunity, i.e., between “no notice”/“no hearing”, and “no fair hearing”. In the case of the former, the order passed would undoubtedly be invalid (‘void’ or a ‘nullity’). But, in the latter case, the effect of violation (of a facet of the rule of audi alteram partem) should be examined from the standpoint of prejudice. In other words, what should be seen is whether, in the totality of the circumstances, the delinquent officer/employee did or did not have a fair hearing, and the orders to be made shall depend upon the answer to the said query.

Violation of any and every procedural provision cannot be said to automatically vitiate the enquiry held or order passed. Except cases falling under -- "no notice", "no opportunity" and "no hearing" categories, the complaint of violation of procedural provisions should be examined from the point of view of prejudice. If no prejudice is established to have resulted therefrom, no interference is called for. All that the Courts must examine is whether non-observance of any of these principles, in a given case, is likely to have resulted in deflecting the course of justice. No interference is called for where procedural violations, if any, have not caused any prejudice to the delinquent. Violation of principles of natural justice may not, by itself, necessitate interference by this Court, under Article 226 of the Constitution of India, in all cases. Interference would be justified only where manifest injustice would otherwise ensue or where larger public interest would so require. The findings of fact reached by an inferior tribunal, as a result of appreciation of evidence, are not reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by a tribunal, a writ can be issued if it is shown that, in recording the said finding, the tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Again if a finding of fact is based on no

evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. The adequacy or sufficiency of evidence led on a point, and the inference of fact to be drawn from the said finding, are within the exclusive jurisdiction of the Tribunal. In disciplinary proceedings, the High Court is not, and cannot act as, a second court of appeal. The High Court, in the exercise of its powers under Articles 226 of the Constitution of India, would not re- appreciate the evidence on record. It would only examine whether: (a) the enquiry is held by a competent authority; (b) the enquiry is held according to the procedure prescribed in that behalf; (c) there is violation of principles of natural justice in conducting the proceedings; (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case; (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations; (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such a conclusion; (g) the disciplinary authority had erroneously failed to admit admissible and material evidence; (h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding; and (i) the finding of fact is based on no evidence.

Departmental authorities must be careful in evaluating such material. The essence of a judicial approach is objectivity, exclusion of extraneous material or considerations and observance of the rules of natural justice. Of course, fair play is the basis, and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal, cannot be held to be valid. The enquiry officer has no power as a court to summon witnesses. Just as the employer produces its witnesses, the delinquent employee should take steps to produce his. The enquiry officer has neither the power to produce, nor compel the employer to produce, witnesses for being cross-examined by the delinquent employee. Where the case of the delinquent employee is that the charges are based on the acts of other employees in the office, it is for the charged employee to establish his case. The department is

not expected to examine those other employees in the office to show that it is those employees who were responsible, and not the delinquent employee. Nothing prevented the petitioner from producing witnesses in his defence. The mere fact that these officers were not examined as witnesses cannot, automatically, lead to the conclusion that the enquiry proceedings are vitiated. As long as the evidence on record is sufficient to establish the charges, non-examination of certain witnesses would not vitiate either the departmental enquiry held against the delinquent employee or the punishment imposed on him.

Single Bench Judgments

1. ***In Delay Condonation Application No. 6213 of 2019 and Restoration Application (MCC) No. 378 of 2019 In WP (S/S) No. 210 of 2009, Javed Akhtar & others vs. State of Uttarakhand & others***, decided on 17.10.2019, the Bench observed that since the applicant did not file the restoration application within time and slept over the matter for a considerable period which is considered to be inordinate delay of more than three and a half years and that too without any sufficient cause, this Court is unable to accept the grounds taken by her in the affidavit accompanying the restoration application.
2. ***In WP (M/S) No. 619 of 2019, Geetika Janeja vs. State of Uttarakhand and ors.***, decided on 18.10.2019, the Bench observed that the High Court Registry is directed to send a copy of this order to the Chief Secretary and the Director General of Police of the State of Uttarakhand for full compliance of the directions of the Hon'ble Apex Court in the case of Jai Prakash v. National Insurance Company Limited and others reported in (2010) 2 SCC 607.
3. ***In WP (M/S) No.1954 of 2011, Amrish R. Kilachand vs. Madhvi Harsh Kilachand & others***, decided on 01.11.2019, the Court observed that it is settled proposition in law that appellate or revisional court should not set aside a judgment and order unless the appellate or revisional court set aside the findings recorded by the trial

court. A judgment is known for its reasoning. If there is no reasoning it cannot be considered as a judgment. A perusal of the order impugned would reveal that the revisional court has allowed the revision by a cryptic order which is against the settled proposition of law. while considering an application under Order 7 Rule 11 of the Code, the court has to examine the averments in the plaint and the pleas taken by the defendant in the written statement would be irrelevant.

4. ***In WP (M/S) No. 1114 of 2019, Nisha Mathur vs. Medical Council of India and ors.***, decided on 06.11.2019, the Court observed that even if the concerned doctor inspite of his best efforts, experience and knowledge has not performed the procedure which he should have performed, it cannot be called a medical negligence. The facts of each case have to be examined independently. In the present case the doctor did whatever was possible for him to do at the relevant time and he did that in his best judgment. It also cannot be specifically pin pointed, and that has also been a finding of the experts here, that the second surgery performed by the doctor cannot be called as an act of medical negligence and at best it was an error of judgment. All the same, in no manner can this be described as medical negligence.
5. ***In Criminal Misc. Application No. 613 of 2011, Air Marshal Kanwar Dalindrjit Singh, PVSM, AVSM, (Retd.) vs. State of Uttarakhand and another***, decided on 15.11.2019, the Court observed that under the proceedings of the Code meticulous examination of the case; probative or evidentiary value of the evidence; chances of conviction; reliability of the witnesses may not be tested. The factual aspects are to be left for trial. General principle is that the trial should not be stopped at the threshold, but, then to the extent of prima facie case, the matter can definitely be looked into. This Court has to exercise its jurisdiction under Section 482 of the Code, whenever occasion arises, to prevent the abuse of process of law or to secure the ends of justice. The Court is cautious that no deeper examination of the evidence should be done at this stage, but if there is some clear fact which is ignored while taking cognizance, this Court cannot close its eyes and to that extent, this Court may definitely look into the evidence.

6. ***In (MCC No.1116 of 2019) A.O. No. 1241 of 2001 (Old case no. 879 of 1994, Smt. Surindra Kaur and ors., vs. M.A.C.T, Dehradun and ors.,*** decided on 16.11.2019, the Bench observed that the Tribunal and the High Court held that no proof of income has been produced to show that the deceased was alleged to be a carpenter. We fail to understand what proof a carpenter can lead except to lead oral evidence. However, the jurisdiction of review is within the parameters of the provisions contained under Order 47 Rule 1 of CPC invoking the review jurisdiction in order to review a judgment, the error must be apparent on the face of record, which could not to be explored and the fact so discovered is considered should not amount to rehearing the case. While hearing the review application, the review court should not enter into and decide the controversy *de novo* as a trial or as an appellate authority. If an error in a judgment is apparent on the face of record, the court may review the judgment, but if the review court is required to discuss the pleading and the evidence *de novo*, it cannot be a subject matter of the review petition and in such a situation, the judgment as sought to be reviewed can only be challenged before the Appellate Court. The jurisdiction of this Court in hearing the review application is not akin to the appellate or trial jurisdiction, rather it is the limited jurisdiction to correct the accidental mistake or to avoid the miscarriage of justice. This Court should not have considered the review application as *de novo* hearing of the matter. However, to consider all the possibilities which could be favourable to the review applicant, this Court may enhance the compensation to the applicants.
7. ***In CRLR No. 135 of 2014, Julficar vs. State of Uttarakhand alongwith connected matter,*** decided on 19.11.2019, the Court observed that the framing of a charge since it levies a prima-facie established allegation of the probable involvement of the person facing the trial with regards the commission of the offence, it will take the shape of being an intermediary order and, hence, it has been held to be revisable under Section 397 of Cr.P.C. to be read with Section 401 of Cr.P.C. In order to determine the scope of a revision and its limitation, the term “interlocutory order”, as per the view of this Court could be read as if to be an order though having been

passed dealing with an issue during the pendency of the principal proceedings and its final adjudication, but the impact of the said order is not of such a magnitude which either determines the right of a litigating party or it affects the determination of the principal trial itself. Meaning thereby, interlocutory order takes the shape of a procedural order which is not affecting right of a person and it is also not a determination of any of the aspects of the proceedings on its merit. The learned trial Court at the time of considering the issue of discharge has not to determine the consequences of the trial whether it will lead to an acquittal or a conviction. It has only to apply its mind based upon the records of the case as to whether the set of allegation or the evidences calls for carrying an unnecessary trial and its only the affect of triability of an offence when the discharge could be considered. Framing of a charge could not be on a preponderance of on a mere suspension it has to be distinguished in a manner that there has to be grave suspicion of the involvement of the accused under trial in commission of an offence. Though, at the stage of framing of a charge, the Court is not responsible to advert to all the materials which has to be utilised by the trial Court while framing of a charge but simultaneously, it also precautions that the material produced by the prosecution for framing of a charge has to be judicially considered in the circumstances of the each case for the purposes of formulation of a charge. In those circumstances, where the Court though even tentatively considers the record and the prosecution case for framing of a charge under Section 228, it affects the right of a person because as a consequence thereto, he will have to face the trial for the offences. Against the order of framing of a charge, the revision under Section 397 to be read with Section 401 of Cr.PC would be maintainable.

8. ***In CRLR No. 693 of 2019, Sumeet Sofat vs. State of Uttarakhand***, decided on 27.11.2019, the Bench observed that since the impugned order dated 28th November 2019, was confined to an adjudication, made on an application paper numbers 392 (ka) and 393 (ka), filed for consideration on judicial side, and the order thereby rendered by the Additional District and Sessions Judge on those applications was a judicial order, it could have been only scrutinized judicially by the superior Courts,

which the revisionist has sought to be done by invoking the revisional jurisdiction of this Court. A judicial officer, who is exercising his judicial powers under a statute, if he renders a judgment, that judgment might be right or wrong that could only be made a subject matter of its judicial scrutiny by the superior Courts. Merely a dereliction or misinterpretation or even a wrong judgment for that purpose given by the judicial officer in exercise of his judicial powers cannot be made as a subject matter for punishing an officer for committing a procedural or judicial flaw in rendering an order, which is under challenge in the present revision, and that too by invoking revisional jurisdiction of the High Court under Section 397 CrPC. Apart from it, the said relief under no proposition of law, cannot be made as a subject matter of revision because it is not a subject matter which was agitated by the revisionist on an administrative side before the Hon'ble Chief Justice. Thus the relief prayed for, seeking an action against the judicial officer, is absolutely misconceived, untenable and beyond the scope of revisional jurisdiction.

9. ***In W.P. (M/S) No. 3735 of 2018, M/s ebm-Papst India Pvt. Ltd. vs. State of Uttarakhand and ors.*** , decided on 04.12.2019, the Bench observed that it is a settled principle of law that if an item or entry clearly comes under one of the Schedules given in the fiscal law, where the rate of tax is to be determined, then it should not be relegated to the residuary clause. In this case the goods in question is categorically a part of telecommunication equipment and therefore it could have been charged only under entry no. 3 of Schedule II and not under the residuary clause.
10. ***In CRLR No. 727 of 2019, Jagdish Singh Negi vs. State of Uttarakhand and another,*** decided on 05.12.2019, the Court observed that at the stage when the interim application is being considered, there is no requirement as such to frame a point of determination to adjudicate the same, as it does not affect or determine a right or a liability of a party to the proceedings.
11. ***In CLR No. 58 of 2019, Hargovind Singh & anr. vs. Smt. Pratibha Chandra,*** decided on 16.12.2019, the Court observed that admissibility of a document is to be considered when execution of the document is proved by cogent evident, but, when it is

brought to the notice of the court that an instrument which is not duly stamped has been filed on record then it was the duty of the Trial Court to send the document for its impounding to the Collector concerned. Firstly, the Trial Court has committed illegality in non-sending the document to the Collector concerned to impound the same; secondly the Trial Court has committed illegality in rejecting the application filed by the revisionist praying therein that alleged rent deed be sent to the Collector concerned for its impounding.

Major Events & Initiatives

1. Gandhi Jyanti Celebration: On 2nd October, 2019, Gandhi Jyanti was celebrated in the High Court premises with Great enthusiasm. On this occasion, Hon'ble the Chief Justice, Hon'ble Mr. Justice Sudhanshu Dhulia, Senior Judge and Hon'ble Mr. Justice Ravindra Maithani graced the occasion. Officers, Officials of the Registry, Advocates were also present to mark the occasion.

2. Constitution Day Celebration: On 26th November, 2019, Constitution Day was celebrated in the High Court premises with Great enthusiasm. On this occasion, Hon'ble the Chief Justice, Mr. Justice Ramesh Ranganathan, Hon'ble Mr. Justice Sudhanshu Dhulia, Senior Judge, Hon'ble Mr. Justice Alok Singh, Hon'ble Mr. Justice Lok Pal Singh, Hon'ble Mr. Justice Manoj Kumar Tiwari, Hon'ble Mr. Justice Sharad Kumar Sharma, Hon'ble Mr. Justice Narayan Singh Dhanik, Hon'ble Mr. Justice Ramesh Chandra Khulbe, Hon'ble Mr. Justice Ravindra Maithani and Hon'ble Mr. Justice Alok Kumar Verma graced the occasion. Officers, Officials of the Registry, Advocates were also present to mark the occasion.

Programmes attended by Hon'ble Judges (From October 2019 to December, 2019)

1. Hon'ble Mr. Justice Alok Kumar Verma visited National Judicial Academy, Bhopal to newly elevated High Court Justices during the period 12.10.2019 to 13.10.2019. He also visited New Delhi to attend the North Zone-I Regional Conference on Optimizing Quality and Efficiency in Justice Delivery Challenges and Opportunities during the period from 31.11.2019 to 01.12.2019.
2. Hon'ble Mr. Justice Lok Pal Singh visited New Delhi to attend the North Zone-I Regional Conference on Optimizing Quality and Efficiency in Justice Delivery Challenges and Opportunities during the period from 31.11.2019 to 01.12.2019.
3. Hon'ble Mr. Justice Manoj Kumar Tiwari visited New Delhi to attend the North Zone-I Regional Conference on Optimizing Quality and Efficiency in Justice Delivery Challenges and Opportunities during the period from 31.11.2019 to 01.12.2019.
4. Hon'ble Mr. Justice Ramesh Chandra Khulbe visited New Delhi to attend the North Zone-I Regional Conference on Optimizing Quality and Efficiency in Justice Delivery Challenges and Opportunities during the period from 31.11.2019 to 01.12.2019.

ACTIVITIES OF SLSA FOR THE MONTH OF OCTOBER TO DECEMBER, 2019

NATIONAL LOK ADALAT

As per directions of National Legal Services Authority and under the valuable guidance of Hon'ble the Executive Chairman, Uttarakhand State Legal Services Authority, one National Lok Adalat was organized in the State of Uttarakhand from Tehsil Level to High Court Level in all the Courts and Quasi Judicial Authorities on 14.12.2019. In the said National Lok Adalat, apart from the money recovery cases, civil and criminal cases, the matters pertaining to labour disputes, revenue disputes, Land Acquisition Act, family disputes, MACT, NI Act, water and electricity and all such matters, which can be settled amicably were taken up.

In this National Lok Adalat, a total number of **20555 cases** were taken up and out of them **3805 cases were settled amicably**. Amount to the tune of Rs. **25,68,82,410** was also settled.

LEGAL AWARENESS ON COMMEMORATIVE DAYS

Between the months of October, 2019 to December, 2019, the Mental Health Day, National Legal Services Day, Constitution Day, AIDS Day, Disability Day and Human Rights Day were observed throughout the State. During these

occasions, 842 special legal literacy and awareness camps were organized wherein **35800 people** got benefitted.

Legal Services/Empowerment Camps

(a) During the month of October, 2019 to December, 2019, 44 New Module Camps empowering the common masses about their legal rights are being held in association with the other Government Departments, such as District Administration, Social Welfare Department, Labour Department, Block Offices, Village Development Offices, Health Department, Police Department etc. The venues of these camps were Schools, Colleges, Villages, Community Centres etc.

(b) Number and names of organization/departments participated : **09**

(c) Number of beneficiaries : **34724**

STATISTICAL INFORMATION

**Statement showing the progress of Lok Adalats held
in the State of Uttarakhand
for the period from October, 2019 to December, 2019**

Sl. No.	Name of DLSA's	No. of Lok Adalats Held	No. of Cases Taken up	No. of Cases Dispose d off	Compensation/ Settlement Amount	Amount Realized As Fine (in Rs.)	No. of Persons Benefited in Lok Adalat
01	ALMORA	01	110	25	57,90,754	-	25
02	BAGESHWER	03	62	34	9,26,500	34,600	34
03	CHAMOLI	01	34	15	14,31,000	-	15
04	CHAMPAWAT	01	89	24	3,40,000	70,000	24
05	DEHRADUN	04	3327	1403	1,09,84,632	10,24,030	1405
06	HARDWAR	01	1485	1076	61,22,000	-	1076
07	NAINITAL	03	1892	473	1,33,37,510	1,72,650	473
08	PAURI GARHWAL	01	89	44	56,55,133	6,000	44
09	PITHORAGARH	04	271	97	94,67,198	1,71,500	97
10	RUDRAPARYAG	01	58	09	23,46,041	-	09
11	TEHRI GARHWAL	03	410	97	37,31,156	1,93,600	97
12	UDHAM SINGH NAGAR	04	3654	526	97,84,680	7,18,250	553
13	UTTARKASHI	01	61	60	39,71,120	-	60
14	HCSLC, NAINITAL	01	201	47	3,44,33,200	-	47
15	UKSLSA,NTL	-	-	-	-	-	-
	TOTAL :-	29	11743	3930	10,83,20,924	23,90,630	3959

**Statement showing the progress of Camps organized in the State of
Uttarakhand for the period from October, 2019 to December, 2019**

Sl. No.	Name of DLSA's	No. of Camps Organized	No. of Persons Benefited in Camps
01	ALMORA	92	11043
02	BAGESHWER	349	11854
03	CHAMOLI	205	16287
04	CHAMPAWAT	218	20767
05	DEHRADUN	97	11249
06	HARDWAR	270	14089
07	NAINITAL	300	34233
08	PAURI GARHWAL	128	8064
09	PITHORAGARH	336	35551
10	RUDRAPARYAG	59	3441
11	TEHRI GARHWAL	168	12994
12	UDHAM SINGH NAGAR	98	26161
13	UTTARKASHI	488	7502
14	HCLSC, Nainital	-	-
15	UKSLSA, Nainital	-	-
	Total	2808	213235

**Statement showing the progress of Legal Aid and Advice/Counseling provided
in the State of Uttarakhand
for the period from October, 2019 to December, 2019**

Sl. No.	Name of DLSA's	No. of Persons Benefited through Legal Aid & Advice	
		Legal Aid	Legal Advice/ Counseling
01	ALMORA	19	12
02	BAGESHWER	23	-
03	CHAMOLI	19	32
04	CHAMPAWAT	07	-
05	DEHRADUN	166	04
06	HARDWAR	101	-
07	NAINITAL	39	08
08	PAURI GARHWAL	39	46
09	PITHORAGARH	21	05
10	RUDRAPARYAG	07	02
11	TEHRI GARHWAL	36	16
12	UDHAM SINGH NAGAR	134	30
13	UTTARKASHI	16	18
14	H.C.L.S.C., N.T.L.	159	-
15	U.K. S.L.S.A., N.T.L.	-	28
	TOTAL	786	201

UTTARAKHAND JUDICIAL AND LEGAL ACADEMY, BHOWALI, NAINITAL**Training Programmes held in the Month of
October to December, 2019**

Sl. No.	Name of Training Programmes/ Workshops	Duration
1.	Foundation Training Programme for Newly Recruited Civil Judges (J.D.) 2016 Batch (3 rd phase of Institutional Training)	22.07.2019 to 05.10.2019 (Two and Half Months)
2.	One Day Training Programme for PLVs of District Champawat	15.10.2019 (one day)
3.	One Day Training Programme for PLVs of District Nainital	15.10.2019 (one day)
4.	One Day Training Programme for PLVs of District Almora	17.10.2019 (one day)
5.	Workshops on 'Service Jurisprudence & Disciplinary Proceedings' for Additional District and Sessions Judge Cadre Officers	21.10.2019 (Monday) (Pre Lunch Break)
6.	Workshops on 'Commercial Court Act' for Additional District and Sessions Judge Cadre Officers	21.10.2019 (Monday) (Post Lunch Break)
7.	One Day Training Programme for PLVs of District Chamoli	22.10.2019 (one day)
8.	One Day Training Programme for PLVs of District Dehradun	08.11.2019 (one day)
9.	One Day Training Programme for PLVs of District Pauri	14.11.2019 (one day)
10.	Foundation Training Programme for Recently Appointed ADJs (Directly recruited) Judicial Officers in the H.J.S. Cadre	16.11.2019 to 16.01.2020 (Two months)

11.	Reflective Training Programme for Civil Judges (Jr. Div.) 2015 Batch	16.12.2019 to 21.12.2019 (one week)
12.	One day Mediation Training Programme of Referral Judges (Civil Judges (Jr. Div.) 2015 Batch)	19.12.2019 (one day)
13.	Workshop Cum Validation Seminar on Continuing Legal Educating for Advocates, Judicial Officers etc. at UJALA organised by UJALA and IIM, Kashipur	17.12.2019 (one day)



Hon'ble Mr. Justice Sudhanshu Dhulia, Senior Judge, garlanding the statue of Mahatma Gandhi on the occasion of Mahatma Gandhi's Jayanti on 2nd October, 2019.



Hon'ble the Chief Justice, High Court of Uttarakhand addressing the august gathering on the occasion of the Law Day function on 26.11.2019.



Workshops on 'Service Jurisprudence & Disciplinary Proceedings' and Commercial Court Act for Additional District and Sessions Judge Cadre officers on 21.10.2019.



Foundation Training Programme for Recently Appointed ADJs (Directly recruited) Judicial Officers in the H.J.S. Cadre from 16.11.2019 to 16.01.2020



Workshop Cum Validation Seminar on Continuing Legal Educating for Advocates, Judicial Officers *etc.* at UJALA organised by UJALA and IIM, Kashipur on 17.12.2019.