

BEFORE THE HON'BLE SUPREME COURT OF INDIA

(Civil Writ Jurisdiction)

(Under Article 32 of the Constitution of India)

WRIT PETITION (CIVIL) NO. () OF 2014

In the matter

Keshar Singh Panwar and others ... Petitioners

VERSUS

State of Uttarakhand and others ... Respondents

Paper Book

(FOR INDEX, PLEASE SEE INSIDE)

ALONG WITH

I.A. No. :_____ of 2014: Application for Direction

I.A. No. :_____ of 2014: Application for exemption from filing
official translation of documents

Date of Filing:

Advocate for Petitioners: Ms. Jyoti Mendiratta, Adv.

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RECORD OF PROCEEDINGS

SYNOPSIS

This petition in public interest is being filed by the Petitioners herein seeking directions of this Hon'ble Court to the Respondent, inter alia, to prepare in advance for the natural calamity that may occur in the state of Uttarakhand as soon as the rains start to pour in and also to implement the schemes and programmes in view of the natural calamities that hit the state of Uttarakhand in the years 2012 and 2013 that cause widespread loss of lives and property.

Despite the recent tragedy which affected the Chaardham area of Uttarakhand, where in June 2013, the area around Yamunotri, Gangotri, Kedarnath, Badrinath and Nandadevi Biosphere Reserve/ National Park received heavy rainfall and the consequential catastrophic flood originating from Chorabari lake outburst in conjunction with massive landslides and flash-floods principally in the Mandakini, upper Bhagirathi, Yamuna and Alaknanda basins leading to a large scale calamity which resulted in a huge loss of human lives and property, the lessons have not been learnt either by the state government or the central government. Even though the Supreme Court showed the utmost concern in its various orders in the case of Alakanda Hydropower Company Limited Vs. Anuj Joshi and Others (2014 1 SCC 769), the public works to ensure that the tragedy is not repeated during the present monsoon started very late in March 2014, token advances were given to get the work

started which amounted to just approx. 1% of the money required and, as a result, in most areas the work is proceeding slowly or at a standstill, which has created a grave threat and danger to many places, residential areas and highways in coming monsoon.

This petition is therefore being filed in this Court giving specific instances of potential crisis areas in the Yamuna Valley, the Gangotri Valley, the Alaknanda Valley and the Mandakini Valley of the state of Uttarakhand, together with photographs to urge this Hon'ble Court to direct the Indian Army, Border Road Organisation (BRO) and the state authorities to immediately, on a war footing, carry out the public works in the first instance in accordance with the crisis public works listed in the prayer clauses and at the same time, to carry out the emergency public works required to be done as mentioned in the various reports of the state authorities as elaborated hereinafter.

The situation is such, that should the rains commence on time in the last week of June 2014 with the state of preparedness almost nil, a huge tragedy may well unfold taking many lives and destroying property once again as happened last year.

To add to the potential crisis, the state authorities have taken the most reckless decisions to start the Char-Dham yatra in all the four valleys and an estimated 4 lakhs persons will be present at any point of time in the four valleys. The total number of persons visiting,

therefore, will be much higher. Should a tragedy occur in the background of total lack of preparedness the human toll would be considerable.

In the abovementioned Supreme Court case relating to the Alaknanda Hydropower Company the Supreme Court observed as under:

“52. We are also deeply concerned with the recent tragedy, which has affected the Char Dham area of Uttarakhand. Wadia Institute of Himalayan Geology (WIG) recorded 350 mm of rain on June 15-16, 2013. Snowfall ahead of the cloudburst also has contributed to the floods resulting in the burst on the banks of Chorabari lake near Kedarnath, leading to large scale calamity leading to loss of human lives and property. The adverse effect of the existing projects, projects under construction and proposed, on the environment and ecology calls for a detailed scientific study. Proper Disaster Management Plan, it is seen, is also not in place, resulting in loss of lives and property. In view of the above mentioned circumstances, we are inclined to give following directions:

52.1 We direct the MoEF as well as State of Uttarakhand not to grant any further environmental clearance or forest clearance for any hydroelectric power project in the State of Uttarakhand, until further orders.

52.2 MoEF is directed to constitute an Expert Body consisting of representatives of the State Government, WII, Central Electricity Authority, Central Water Commission and other expert bodies to make a detailed study as to whether Hydroelectric Power Projects existing and under construction have contributed to the environmental degradation, if so, to what extent and also whether it has contributed to the present tragedy occurred at Uttarakhand in the month of June 2013.

52.3 MoEF is directed to examine, as noticed by WII in its report, as to whether the proposed 24 projects are causing significant impact on the biodiversity of Alaknanda and Bhagirath River basins.

52.4 The Disaster Management Authority, Uttarakhand would submit a Report to this Court as to whether they had any Disaster Management Plan is in place in the State of Uttarakhand and how effective that plan was for combating the present unprecedented tragedy at Uttarakhand."

The Petitioners in the instant petition are the persons who are renowned social activists in the State of Utrtrakhand. Petitioner No. 1 is a resident of Asi-Ganga valley in Uttarkashi which is worst affected valley in Char-Dham. He has been actively involved in social and political activities for a long time and has now been struggling against the corruption. He is also one of the affected persons in the

disaster and currently heading the "Aapda Baadh Sangharsh Samiti" in Asi-Ganga valley of Uttarkashi for the justice to affected people and to the affected areas.

Petitioner No. 2 is a resident of Chound village situated in Kedar valley. He has been active in social and political activities for a long time and has also contested in the elections for state assembly. He is one of the badly affected persons of Kedar valley in the disaster that happened in June 2013 and now is struggling for the justice to disaster affected people and areas of Kedar valley.

Petitioner No. 3 is a young activist and a resident of Uttarkashi. He has been associated with famous 'Sarvodaya andolan' initiated by saint Vinoba Bhave and currently running the sarvodaya ashram in Uttarkashi. He is very much concerned about social, cultural and environmental issues of Gangotri Valley and has been active in different campaigns to conserve the environment and culture.

Petitioner Nos. 4 & 5 are residents of Yamuna valley and are farmer. They have been active in the campaign to save the environment from exploitation by harmful projects. They have been actively participating in the social and cultural activities to aware the local population for the conservation of the environment of Himalayas.

Petitioner no. 6 is a renowned social activist living in the Kedar Valley. For many years she has started and operates the Kedar Ghati

Bachao Sangarsh Samiti which consists of local people, activists and environmental experts dedicated to the protection of the environment in the Himalayas. Because of her activism she has been harassed by the state government and the hydroelectric companies with the filing of false cases relating to public protests by villagers against these projects.

Petitioner No. 7 is a resident of village Badhangaon near Chinyalisaur of Uttarkashi district which is one of the badly affected villages situated in the vicinity of the reservoir of Tehri dam. He is doing his graduation studies from Uttarkashi and a young activist who is actively participating in campaigns against corruption and to save the environment.

Petitioner No. 8 is currently a doctoral fellow in Jawaharlal Nehru University, New Delhi and a active member of Ganga Ahvaan. He has been associated with the campaign to conserve the Ganga and environment of Himalayas and travelled through all valleys of Uttarkhand Himalayas for Ganga Ahvaan. He also has associated with the local people for their issues regarding environment and sustainable development.

In August 2012 there was a flash flood that occurred in Asi-Ganga which is a tributary of Ganga-Bhagirathi River in Uttarkashi. This has caused a loss of around 40 human lives and massive loss of

residential complexes, land, bridges, domestic animals and had posed a threat to entire Uttarkashi town due to deposition of large amount of debris all along the river bed of Bhagirathi. There were massive damages that happened in Kharadi area of Yamuna valley on the same time.

Unfortunately the relief and protection work to save the nearby areas of Uttarkashi has started very late (in March 2013) with lot of corruption and without efficient monitoring. The work of protection walls which was started during March 2013 was full of corrupt practices under irrigation department, there were wide spread protests and news paper reports exposing such acts and finally the whole late started work was further compromised. Rather than taking a strong action against culprit irrigation officials, Respondent State just only transferred those officials on another place. As a result when flood happened in June 2013, already untreated debris and compromised work has further aggravated the river flow and therefore caused massive devastation in Uttarkashi town. If the disaster management work was properly done a big loss would have been avoided in Uttarkashi town. The same has happened in Yamuna valley near Kharadi. Because no work has been executed last year, the aggravated River has caused a lot of damage and loss of property and Yamunotri National Highway.

In September 2012, a big cloud bust event happened in Ukhimath area of Mandakini valley that caused loss of about 60 human lives and number of houses, agricultural land were washed away. After this disaster of 2012 State DMMC has given a report to Respondent State but recommendations of DMMC has still become a wild goose chase.

The entire Alaknanda and Bhagirathi basins (A-B basins) in Uttarakhand experienced the intense rainfall during June 15-17, 2013 which precipitated on an average about 250 mm to 400 mm in many parts of Uttarakhand during this spell. The upper basins of Bhagirathi, Alaknanda and its tributary Mandakini which have a glacial spread of about 2000 square kilometre, received heavy rainfall between June 15 and June 17. The entire region from Gangotri to Paonta-Sahib in the west to the Kali River in the east received heavy to extremely heavy rainfall over a period of 48-72 hours between June 15 and June 18, 2013. According to Indian Metrological Department's (IMD) analysis of this severe storm, "wide spread very heavy to extremely heavy rainfall occurred over Uttarakhand and neighbouring states during 16-18 June 2013. This has caused severe flood, landslides, large scale loss of lives, properties and damages." The analysis said that anthropogenic activities has also led to massive over-exploitation of the local

environment, thereby loosening the top soil and making the region susceptible to landslides and flash floods.

The stretch around Yamunotri, Gangotri, Kedarnath, Badrinath and Nandadevi Biosphere Reserve/ National Park received heavy rainfall and the consequential catastrophic flood originating from Chorabari lake outburst in conjunction with massive landslides and flash-floods principally in the Mandakini, upper Bhagirathi and Alaknanda basins ravaged Uttarakhand. The tragedy of colossal loss of human and animal lives along with infrastructure is expressed in figures in Table below:

Sl. No.	Nature of Damage	Numbers
1	Affected persons	5,00,000 (approx.)
2	Affected villages	4,200
3	Severely affected villages	over 300
4	Persons injured	4,463
5	Number of dead persons	over 900*
6	Number of missing persons	5,748*
7	Number of pukka houses damaged	2,679
8	Number of kuccha houses damaged	681
9	Number of animals lost	8,716
10	Number of roads destroyed	2,302
11	Number of bridges washed away	145
12	Number of drinking water schemes damaged	1,418
13	Number of villages without power	3,758

Source: DMMC, IAG, UNDMT, Internet.

Note: *These are government figures. Unofficial estimates of dead and missing persons are much higher.

The present situation is described by the petitioner, by way of example, by a series of photographs which have explanations attached to them which demonstrate the seriousness of the situation regarding:

- i. The rivers have risen by as much as 20 feet and going off course due to the huge amounts of debris lying on the riverbed due to the flash floods last year which brought down huge quantities of debris containing big boulders from the mountains to the riverbed. Experts therefore suggested and this was accepted that the rivers have to be re-channelized so that they do not go off course and affect the inhabitants in the nearby areas. For example, (as the photographs at page) -!*%ž*' ž**!* ,) show if the river Bhagirathi is not re-channelized near Uttarkashi town the chances of the river rising to such an extent that it would breach the embankment and flood into Uttarkashi town. Similarly at pages (- ž) \$ž) ž+%ž+' are the photographs showing potential flooding of habited areas in the Kedarnath Valley. The photographs show that some very preliminary work has been done to construct a wall but this work is so pathetic

that it appears that the money has been sent only to enable the authorities to have an excuse that they did some work, when the tragedy hits Uttarkashi town this year. If this were to happen as could very likely happen in Uttarkashi town, the entire town would be washed away resulting in widespread loss of lives and destruction of property. Additionally, petitioner has annexed at Annexure p-3 and p-4 (Colly) the three letters of the District Magistrate Uttarkashi dated 4.9.13 and 18.1.14 (2 letters) (at pages ...+', , \$ and , &). In the letter dated 4.9.13 the District Magistrate has stated, inter alia, as under:

“Due to the ferocious natural disaster which occurred on 16/ 17 of June 2013, the level of water increased from the east, in the rivers Assi Ganga and Bhagirati, due to which a flood came and a lot of private and public properties from Gangori to Gyansu were destroyed. Simultaneously there was a landslide in the populated areas in the above mentioned areas. If immediate action is not taken immediately after present monsoon, so as to remove the debris from the rivers and to channelize them, then the occurrence of extreme dangers in the future cannot be denied.

The District Magistrate in its letter dated 18.1.14 wrote as under:

"This is to inform that on date 07.01.2014, a meeting was held under the leadership of respected Chief Minister of state in which I got an opportunity to be a part of, in which respected Agriculture Minister and Additional Chief Secretary and Secretary of Agriculture were also present, and it was decided that for flood safety activities under S.P.A. in the district, Rs. 150 Crores will be released to the districts but this district has got only Rs. 220 Lakhs under the calamity fund.

Therefore, as per decision taken in the above meeting, it is requested that under the head of S.P.A., the sum of Rs. 150 Crore Should be immediately released so that flood safety activities can be started immediately, so that the proper protection can be given against the possible repeat of the natural calamity as happened last year.

In its second letter written on the same day dated 18.1.14, the District Magistrate wrote as under:

"In the letter no 1274/31 (2013-14) addressed to the chief secretary, department of disaster management uttarakhand and to the garhwal mandal for the decantation of RBM was requested to grant 10 big machines and 5 crore. For the technical support the help

of technical department is also requested but all the above mentioned request are not accepted for the 7 areas. If the above is not done than there will be grave danger in the areas of Uttarkashi and in nearby areas.

Therefore it is requested to channelize the 7 areas for removing the RBM and to grant the required number of machines and the amount."

- ii. Similarly, petitioner has annexed at Annexure P-5 hereto is the letter dated 14.03.2014 of the Secretary, Natural Disaster and Rehabilitation Department to the Chief Engineer, Irrigation Department by which the Uttarakhand Administration has allocated only Rs 5.66 crore as contribution of state government for incurring the expenditure on 52 schemes of flood safety schemes. It is important to mention here that the budget of these scheme is for Rs 566.90 Crore. In this letter, the Secretary writes as under:

"Hence, in accordance with the approval given in the second meeting dated 22.02.2014 of the High Power Committee on Natural Calamity / CSS reconstruction, I have been directed to communicate that the Hon'ble governor is pleased to approve, for the current financial year 2013-14, a sum of Rs. 566.91 Lakh (Rupees Five Crore Sixty Six Lakh Ninety Thousand only) as the

contribution of state government against the estimated outlay of Rs. 56690.83 Lakh (Rupees Five Hundred and Sixty Six Crore Ninty Lakh and Eighty Three Thousand Only) for 52 schemes of flood safety."

- iii. Loss of connectivity with the highways being washed away by the river resulting in the stranding of lakhs of villagers and pilgrims. The earlier damage to the highways was to be immediately rectified, however, negligible and incomplete work has been done and whatever work has been completed has been done in a very substandard manner, as a result of which with the onset of the first rains the highways in the four valleys will become immediately unusable and unsafe. Where many of the highways have not been repaired, internal parallel roads have been made over the mountains, but here too the mountain slopes above and below the roads have not been treated for stability and with the onset of the monsoons, even the internal roads will become dangerous to use. The photographs at pages () ž(* ž(- ž) \$ž) &!) +ž* &ž* (show that the Gangotri highway, the Kedarnath highway, the Badrinath highway and the Yamunotri highway that were washed away have not been reconstructed with a view to ensuring the integrity of the highways when the rains come this year. Rather, very temporary kaccha work has been done and the photographs show that a mud road

exists today where the highways once were. With the first rains these kaccha roads will result in landslides and will become dangerous. Pilgrims who are stranded on these roads will fear for their lives. Moreover, on the mountain slopes there are huge quantities of debris and loose mass that is very likely to come down in the landslides onto the roads. What was required to be done was to remove the loose mass, do mechanical gabion treatment (using chemicals under pressure to stabilize the slope followed by net covering) and then to make a retaining wall so that any landslide does not come on to the road and is caught by the retaining wall. None of this has been done.

- iv. Loss of connectivity due to massive landslides rendering not only the highways but also the interior roads unusable. These landslides which happened last year were to be completely rectified not merely by removing debris which is only a temporary solution, but also by treating the mountain slopes so that landslides did not occur again. Unfortunately, a short term and temporary approach has been taken. Bulldozers have been used to clear the roads. The photographs annexed show that the mountain slopes remain untreated and unstable. With the first rains the landslides will occur again.

- v. In some areas where the entire area is sinking and even the road has sunk by several feet, what was required to be done is to realign the road to avoid the sinking area completely. Instead, kaccha roads have been made at the depressed level. With the onset of the monsoons the entire area may collapse into the river taking people, vehicles and houses with them. At pages ((!) %ž) ' ž) (ž) *!+* are photographs showing potential areas likely to collapse completely in the all Char-Dham Valleys.
- vi. The stability of the mountain slopes can only be maintained by imposing a ban on blasting in the hills. This has been suggested by many experts who point out that the Himalayas have become fragile due to the repeated blasting of dynamite while doing construction work particularly for the numerous hydroelectric and other projects underway throughout the state. Nevertheless, blasting continues uncontrolled and the mountains are disintegrating.
- vii. On account of the destruction of the roads and the bridges last year it was expected that the internal roads will be rebuilt and the bridges will be reconstructed. Most of this work has not been done. The photographs at pages)) ž* ' ž+&ž+* show that at Gangotri Valley, Yamunotri Valley and Kedarnath Valley the bridges have not been reconstructed and that the villagers were forced to build

makeshift bridges out of wood that are dangerous to use and which will be washed away when the rains come.

In the Supreme Court judgment in the Alaknanda Hydropower Company Limited case (supra), the Supreme Court enquired as to the status of the Disaster Management Plan. It appears that the state authority has not filed any report in respect of the directions given by the Supreme Court in paragraph 52.4 of the judgment even though 10 months have passed.

The next issue is compensation. The policy of the state government regarding the payment of compensation is to be found in the GO dated 27.06.2013 at Annexure P-8 hereto. In the said policy, the Respondent State has increased the amount of compensation to be paid to the victims of the 2013 calamity, but the victims of the 2012 calamity are not benefitted by the enhanced compensation package. Because of different standards for the compensation for the victims of 2012 calamity and 2013 calamity, there is a situation of unrest amongst similarly placed victims divided by two different tragedies. Many of the victims of the 2012 tragedy are yet to receive the compensation till date.

Nevertheless, the payment of compensation was not done in accordance with the policy, and there were widespread protests regarding payments being made to persons who ought not to have

received compensation, corruption in the system, and so on. The details in respect of corruption in the payment of compensation are at pages 10-11.

The next issue relates to transparency in the spending of funds by the state after the last year's disaster. It appears that approximately Rs. 7,000 crores came into the coffers of the state from various sources during and after the disaster. The state demanded a further amount of Rs. 13,800 crores. There is no transparency whatsoever as to how this money has been spent. A study of the work on the ground indicates that very little work has been done and that the work that has been done is of poor quality. There have been widespread protests regarding the inactivity and unconcern shown by the state government. By way of an example, in Uttarkashi alone from October 2013 to December 2013 a dharna was continuously organized. Petitioner has annexed at Annexures P-9 and P-10 hereto by way of example only the letters written by aggrieved persons to the authorities pointing out the work required to be done and the funds required to be allocated and complaining that there is inertia on the part of the authorities.

It appears that the Geological Survey of India submitted a report to the state government two months ago regarding the stability of the various areas and recommendations have been made. This report is not in possession of the petitioners but it appears that very

important recommendations have been made regarding emergency work that should be taken up. Similarly, the State Irrigation Department has written several letters to the government putting on record the work that is required to be done in their areas together with the budget required. In most of these cases, there was no positive response from the state government and if at all moneys have been allocated these have been small amounts as compared to the resources required so as to make it impossible for the work commenced to be completed.

The most recent developments are that the Ministry of Environment and Forest (MOEF), Government of India, has filed in the Supreme Court in the Alaknanda matter (supra) that they have formulated a "Himalayan Policy" in the context of Uttrakhand.

A further development relevant to the present case is that a 100 kilometer stretch in the Gangotri valley from Gomukh to Uttarkashi has been notified as an "Ecologically Sensitive Zone". At Annexure P-11 hereto is a copy of the said notification dated 18.12.2012. The said notification has not been implemented for the last two years and even the provision for the notification of a "Zonal Master Plan" for the specified area has not happened.

In view of the facts and circumstances of the instant petition, the Petitioner is left with no other option than to approach this Hon'ble Court for the reliefs sought in this petition.

Hence this petition.

BEFORE THE HON'BLE SUPREME COURT OF INDIA

(Civil Writ Jurisdiction)

(Under Article 32 of the Constitution of India)

WRIT PETITION (CIVIL) NO. _____ OF 2014

In the matter

1. Keshar Singh Panwar
Village Uttaron
Gangori, Uttarkashi ... Petitioner No. 1
2. Shambhu Prasad Bhat
Village Chound
(Kedar Valley)
Agastmuni, Rudraprayag ... Petitioner No. 2
3. Gautam Bhatt
Sarvoday Ashram
(Ganga Valley)
Ujeli, Uttarkashi ... Petitioner No. 3
4. Suman Vishwakarma
GPO Nagam Village
(Yamuna Valley)
Badkot, Uttarkashi ... Petitioner No. 4
5. Jaiveer Singh Panwar
Syalab Village
(Yamuna Valley)
Badkot, Uttarkashi ... Petitioner No. 5
6. Sushila Bhandari
Village Raidi
Agastmuni, Rudraprayag ... Petitioner No. 6

7. Deepak Ramola
Village Badhangaon
Chinyalisaur, Uttarkashi ... Petitioner No. 7
8. Amba Shanker Bajpai
138, Sabarmati Hostal
Jawaharlal Nehru University Campus
New Delhi- 110067 ... Petitioner No. 8

VERSUS

1. State of Uttarakhand
(Through its Chief Secretary)
Secretariat, Dehadun ... Respondent No. 1
2. Union of India
(Through its Secretary)
Ministry of Home Affairs
North Block, New Delhi – 110001 ... Respondent No. 2
3. National Disaster Management Authority
(Through its Secretary)
NDMA Bhawan,
A-1, Safdarjang Enclave,
New Delhi, Delhi 110029 ... Respondent No. 3
4. Disaster Mitigation and Management Center
Government of Uttarakhand
(Through its Director)
Secretariat, Dehadun ... Respondent No. 4

5. Geological Survey of India
(Through its Director General)
27, J. L. Nehru Road
Kolkata-700016

... Respondent No. 5

To
The Hon'ble Chief Justice of India and
His Hon'ble Companion Justices
Hon'ble Supreme Court of India
New Delhi

Humble Petition of
the Petitioners herein

Most Respectfully showeth:

1. This petition in public interest is being filed by the Petitioners herein seeking directions of this Hon'ble Court to the Respondent, inter alia, to prepare in advance for the natural calamity that may occur in the state of Uttrakhand as soon as the rains start to pour in and also to implement the schemes and programmes in view of the natural calamities that hit the state of Uttrakhand in the years 2012 and 2013 that cause widespread loss of lives and property.
2. Despite the recent tragedy which affected the Chaardham area of Uttarkhand, where in June 2013, the area around Yamunotri, Gangotri, Kedarnath, Badrinath and Nandadevi Biosphere Reserve/ National Park received heavy rainfall and the consequential catastrophic flood originating from Chorabari lake

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works required to be done as mentioned in the various reports of the state authorities as elaborated hereinafter.

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5. To add to the potential crisis, the state authorities have taken the most reckless decisions to start the Char-Dham yatra in all the four valleys and an estimated 4 lakhs persons will be present at any point of time in the four valleys. The total number of persons visiting, therefore, will be much higher. Should a tragedy occur in the background of total lack of preparedness the human toll would be considerable.
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52.4 The Disaster Management Authority, Uttarakhand would submit a Report to this Court as to whether they had any Disaster Management Plan in place in the State of Uttarakhand and how effective that plan was for combating the present unprecedented tragedy at Uttarakhand.”

7. The Petitioners in the instant petition are the persons, who are renowned social activists in the State of Utrtrakhand. Petitioner No. 1 is a resident of Asi-Ganga valley in Uttarkashi which is worst affected valley in Char-Dham. He has been actively involved in social and political activities for a long time and has now been struggling against the corruption. He is also one of the affected persons in the disaster and currently heading the “Aapda Baadh Sangharsh Samiti” in Asi-Ganga valley of Uttarkashi for the justice to affected people and to the affected areas.
8. Petitioner No. 2 is a resident of Chound village situated in Kedar valley. He has been active in social and political activities for a long time and has also contested in the elections for state assembly. He is one of the badly affected persons of Kedar valley in the disaster that happened in June 2013 and now is struggling for the justice to disaster affected people and areas of Kedar valley.

9. Petitioner No. 3 is a young activist and a resident of Uttarkashi. He has been associated with famous 'Sarvodaya andolan' initiated by saint Vinoba Bhave and currently running the sarvodaya ashram in Uttarkashi. He is very much concerned about social, cultural and environmental issues of Gangotri Valley and has been active in different campaigns to conserve the environment and culture.
10. Petitioner Nos. 4 & 5 are residents of Yamuna valley and are farmer. They have been active in the campaign to save the environment from exploitation by harmful projects. They have been actively participating in the social and cultural activities to aware the local population for the conservation of the environment of Himalayas.
11. Petitioner no. 6 is a renowned social activist living in the Kedar Valley. For many years she has started and operates the Kedar Ghati Bachao Sangarsh Samiti which consists of local people, activists and environmental experts dedicated to the protection of the environment in the Himalayas. Because of her activism she has been harassed by the state government and the hydroelectric companies with the filing of false cases relating to public protests by villagers against these projects.
12. Petitioner No. 7 is a resident of village Badhangaon near Chinyalisaur of Uttarkashi district which is one of the badly

affected villages situated in the vicinity of the reservoir of Tehri dam. He is doing his graduation studies from Uttarkashi and a young activist who is actively participating in campaigns against corruption and to save the environment.

13. Petitioner No. 8 is currently a doctoral fellow in Jawaharlal Nehru University, New Delhi and a active member of Ganga Ahvaan. He has been associated with the campaign to conserve the Ganga and environment of Himalayas and travelled through all valleys of Uttarkhand Himalayas for Ganga Ahvaan. He also has associated with the local people for their issues regarding environment and sustainable development.
14. In August 2012 there was a flash flood that occurred in Asi-Ganga which is a tributary of Ganga-Bhagirathi River in Uttarkashi. This has caused a loss of around 40 human lives and massive loss of residential complexes, land, bridges, domestic animals and had posed a threat to entire Uttarkashi town due to deposition of large amount of debris all along the river bed of Bhagirathi. There were massive damages that happened in Kharadi area of Yamuna valley on the same time.
15. Unfortunately the relief and protection work to save the nearby areas of Uttarkashi has started very late (in March 2013) with lot of corruption and without efficient monitoring. The work of protection walls which was started during March 2013 was full

of corrupt practices under irrigation department, there were wide spread protests and news paper reports exposing such acts and finally the whole late started work was further compromised. True copy of the news report dated 21.03.2013 published in "Amar Ujala" is annexed herewith and marked as **Annexure P-1** (Page No. _____ to _____).

16. Rather than taking a strong action against culprit irrigation officials, Respondent State just only transferred those officials on another place. As a result when flood happened in June 2013, already untreated debris and compromised work has further aggravated the river flow and therefore caused massive devastation in Uttarkashi town. If the disaster management work was properly done a big loss would have been avoided in Uttarkashi town. The same has happened in Yamuna valley near Kharadi. Because no work has been executed last year, the aggravated River has caused a lot of damage and loss of property and Yamunotri National Highway.

17. In September 2012, a big cloud bust event happened in Ukhimath area of Mandakini valley that caused loss of about 60 human lives and number of houses, agricultural land were washed away. After this disaster of 2012 State DMMC has given a report to Respondent State but recommendations of DMMC has still become a wild goose chase.

18. The entire Alaknanda and Bhagirathi basins (A-B basins) in Uttarakhand experienced the intense rainfall during June 15-17, 2013 which precipitated on an average about 250 mm to 400 mm in many parts of Uttarakhand during this spell. The upper basins of Bhagirathi, Alaknanda and its tributary Mandakini which have a glacial spread of about 2000 square kilometre, received heavy rainfall between June 15 and June 17. The entire region from Gangotri to Paonta-Sahib in the west to the Kali River in the east received heavy to extremely heavy rainfall over a period of 48-72 hours between June 15 and June 18, 2013. According to Indian Metrological Department's (IMD) analysis of this severe storm, "wide spread very heavy to extremely heavy rainfall occurred over Uttarakhand and neighbouring states during 16-18 June 2013. This has caused severe flood, landslides, large scale loss of lives, properties and damages." The analysis said that anthropogenic activities has also led to massive over-exploitation of the local environment, thereby loosening the top soil and making the region susceptible to landslides and flash floods.

19. The area around Yamunotri, Gangotri, Kedarnath, Badrinath and Nandadevi Biosphere Reserve/ National Park received heavy rainfall and the consequential catastrophic flood originating from Chorabari lake outburst in conjunction with massive landslides

and flash-floods principally in the Mandakini, upper Bhagirathi and Alaknanda basins ravaged Uttarakhand. The tragedy of colossal loss of human and animal lives along with infrastructure is expressed in figures in Table below.

Sl. No.	Nature of Damage	Numbers
1	Affected persons	5,00,000 (approx.)
2	Affected villages	4200
3	Severely affected villages	over 300
4	Persons injured	4,463
5	Number of dead persons	over 900*
6	Number of missing persons	5748*
7	Number of pukka houses damaged	2679
8	Number of kuccha houses damaged	681
9	Number of animals lost	8716
10	Number of roads destroyed	2302
11	Number of bridges washed away	145
12	Number of drinking water schemes damaged	1418
13	Number of villages without power	3758

Source: DMMC, IAG, UNDMT, Internet.

Note: *These are government figures. Unofficial estimates of dead and missing persons are higher.

20. The present situation is described by the petitioner, by way of example, by a series of photographs which have explanations attached to them which demonstrate the seriousness of the

situation. These photographs are annexed herewith and marked as **Annexure P-2** (Page No. _____ to _____).

21. The present situation in the state of Uttarakhand is described and explained by petitioner as under:

- i. The rivers have risen by as much as 20 feet and going off course due to the huge amounts of debris lying on the riverbed due to the flash floods last year which brought down huge quantities of debris containing big boulders from the mountains to the riverbed. Experts therefore suggested and this was accepted that the rivers have to be re- channelized so that they do not go off course and affect the inhabitants in the nearby areas. For example, (as the photographs at page _____) show if the river Bhagirathi is not re-channelized near Uttarkashi town the chances of the river rising to such an extent that it would breach the embankment and flood into Uttarkashi town. Similarly at pages _____ are the photographs showing potential flooding of habited areas in the Kedarnath Valley. The photographs show that some very preliminary work has been done to construct a wall but this work is so pathetic that it appears that the money has been sent only to enable the authorities to have an excuse that they did some

work, when the tragedy hits Uttarkashi town this year. If this were to happen as could very likely happen in Uttarkashi town, the entire town would be washed away resulting in widespread loss of lives and destruction of property. Additionally, petitioner has annexed the three letters of the District Magistrate, Uttarkashi dated 4.9.13 and 18.1.14 (2 letters) (at pages, and) in which the District Magistrate has indicated the severe condition of the district after the floods. In the letter dated 4.9.13 the District Magistrate has stated, inter alia, as under:

“Due to the ferocious natural disaster which occurred on 16/ 17 of June 2013, the level of water increased from the east, in the rivers Assi Ganga and Bhagirati, due to which a flood came and a lot of private and public properties from Gangori to Gyansu were destroyed. Simultaneously there was a landslide in the populated areas in the above mentioned areas. If immediate action is not taken immediately after present monsoon, so as to remove the debris from the rivers and to channelize them, then the occurrence of extreme dangers in the future cannot be denied.

True copy of the letter dated 04.09.2013 written by the District Magistrate is annexed herewith and marked as **Annexure P-3** (Page No. _____ to _____).

The District Magistrate in its letter dated 18.1.14 wrote as under:

“This is to inform that on date 07.01.2014, a meeting was held under the leadership of respected Chief Minister of state in which I got an opportunity to be a part of, in which respected Agriculture Minister and Additional Chief Secretary and Secretary of Agriculture were also present, and it was decided that for flood safety activities under S.P.A. in the district, Rs. 150 Crores will be released to the districts but this district has got only Rs. 220 Lakhs under the calamity fund.

Therefore, as per decision taken in the above meeting, it is requested that under the head of S.P.A., the sum of Rs. 150 Crore Should be immediately released so that flood safety activities can be started immediately, so that the proper protection can be given against the possible repeat of the natural calamity as happened last year.

In its second letter written on the same day dated 18.1.14, the District Magistrate wrote as under:

"In the letter no 1274/31 (2013-14) addressed to the chief secretary, department of disaster management uttarakhand and to the garhwal mandal for the decantation of RBM was requested to grant 10 big machines and 5 crore. For the technical support the help of technical department is also requested but all the above mentioned request are not accepted for the 7 areas. If the above is not done then, there will be grave danger in the areas of Uttarkashi and in nearby areas.

Therefore it is requested to channelize the 7 areas for removing the RBM and to grant the required number of machines and the amount."

True copy of two letters both dated 18.01.2013 written by the District magistrate is annexed herewith and marked as **Annexure P-4 (Colly)** (Page No. _____ to _____)

- ii. Similarly, petitioner has annexed the letter dated 14.03.2014 of the Secretary, Natural Disaster and Rehabilitation Department to the Chief Engineer, Irrigation Department by which the Uttrakhand Administration has allocated only Rs 5.66 crore as contribution of state government for incurring the expenditure on 52 schemes of flood safety schemes. It is important to mention here that the budget of these

scheme is for Rs 566.90 Crore. In this letter, the Secretary writes as under:

"Hence, in accordance with the approval given in the second meeting dated 22.02.2014 of the High Power Committee on Natural Calamity / CSS reconstruction, I have been directed to communicate that the Hon'ble governor is pleased to approve, for the current financial year 2013-14, a sum of Rs. 566.91 Lakh (Rupees Five Crore Sixty Six Lakh Ninety Thousand only) as the contribution of state government against the estimated outlay of Rs. 56690.83 Lakh (Rupees Five Hundred and Sixty Six Crore Ninty Lakh and Eighty Three Thousand Only) for 52 schemes of flood safety."

True copy of the letter dated 14.03.2014 written by the Secretary, Natural Disaster and Rehabilitation Department is annexed herewith and marked as **Annexure P-5** (Page No. _____ to _____)

- iii. Loss of connectivity with the highways being washed away by the river resulting in the stranding of lakhs of villagers and pilgrims. The earlier damage to the highways was to be immediately rectified, however, negligible and incomplete work has been done and whatever work has been completed has been done in a

very substandard manner, as a result of which with the onset of the first rains the highways in the four valleys will become immediately unusable and unsafe. Where many of the highways have not been repaired, internal parallel roads have been made over the mountains, but here too the mountain slopes above and below the roads have not been treated for stability and with the onset of the monsoons, even the internal roads will become dangerous to use. The photographs at pages _____ show that the Gangotri highway, the Kedarnath highway, the Badrinath highway and the Yamunotri highway that were washed away have not been reconstructed with a view to ensuring the integrity of the highways when the rains come this year. Rather, very temporary kaccha work has been done and the photographs show that a mud road exists today where the highways once were. With the first rains these kaccha roads will result in landslides and will become dangerous. Pilgrims who are stranded on these roads will fear for their lives. Moreover, on the mountain slopes there are huge quantities of debris and loose mass that is very likely to come down in the landslides onto the roads. What was required to be done was to remove the loose mass, do mechanical gabion treatment (using chemicals under

pressure to stabilize the slope followed by net covering) and then to make a retaining wall so that any landslide does not come on to the road and is caught by the retaining wall. None of this has been done.

- iv. Loss of connectivity due to massive landslides rendering not only the highways but also the interior roads unusable. These landslides which happened last year were to be completely rectified not merely by removing debris which is only a temporary solution, but also by treating the mountain slopes so that landslides did not occur again. Unfortunately, a short term and temporary approach has been taken. Bulldozers have been used to clear the roads. The photographs annexed show that the mountain slopes remain untreated and unstable. With the first rains the landslides will occur again.
- v. In some areas where the entire area is sinking and even the road has sunk by several feet, what was required to be done is to realign the road to avoid the sinking area completely. Instead, kaccha roads have been made at the depressed level. With the onset of the monsoons the entire area may collapse into the river taking people, vehicles and houses with them. At pages _____

are photographs showing potential areas likely to collapse completely in the all Char-Dham Valley.

- vi. The stability of the mountain slopes can only be maintained by imposing a ban on blasting in the hills. This has been suggested by many experts who point out that the Himalayas have become fragile due to the repeated blasting of dynamite while doing construction work particularly for the numerous hydroelectric and other projects underway throughout the state. Nevertheless, blasting continues uncontrolled and the mountains are disintegrating.

- vii. On account of the destruction of the roads and the bridges last year it was expected that the internal roads will be rebuilt and the bridges will be reconstructed. Most of this work has not been done. The photographs at pages _____ show that at Gangotri Valley, Yamunotri Valley and Kedarnath Valley the bridges have not been reconstructed and that the villagers were forced to build makeshift bridges out of wood that are dangerous to use and which will be washed away when the rains come.

- viii. It is also important to mention here that there is complete ambiguity on the funds that have been raised and received by the Respondent State after the devastation of 2012 and 2013. Various persons including those associated with the Petitioners have made attempt to collect data in this regard from the Respondent State under the provisions of Right to Information Act, but no data on this has been clearly placed anywhere on record. However the media reports have suggested a lot of inflow of funds but how much money has finally reached the state or the districts is absolutely unclear.
- ix. It is imperative to mention that the anticipated devastation this year is mainly due to an absolute lapse of work and the lacklustre behaviour of the state government due to which the locals of the valley are facing a life threatening situation. In this connection, attention is drawn on the sub standard work of reconstruction after the devastation of 2013. Various news reports indicate that the quality of work is far below standards. True copy of the news report dated 10.04.2014 published in Amar Ujala is annexed herewith and marked as **Annexure P-6** (Page No. _____ to _____). True copy of the news report dated 25.04.2014

published in Amar Ujala is annexed herewith and marked as **Annexure P-7** (Page No. _____ to _____).

- x. The locals have time and again complained that the developmental activities being carried out by the state that entails blasting, tunnelling, cutting of mountains, de-forestation etc. are essential causes of this progressive degradation.
22. In the Supreme Court judgment in the Alaknanda Hydropower Company Limited case (supra), the Supreme Court enquired as to the status of the Disaster Management Plan. It appears that the state authority has not filed any report in respect of the directions given by the Supreme Court in paragraph 52.4 of the judgment even though 10 months have passed.
23. The next issue is compensation. The policy of the state government regarding the payment of compensation is to be found in the Government Order No. 475/XVIII-(2)/F/13-4(27)/2010 dated 27.06.2013. In the said policy, the Respondent State has increased the amount of compensation to be paid to the victims of the 2013 calamity, but the victims of the 2012 calamity are not benefitted by the enhanced compensation package. It is also important to mention here that most of the victims of both 2012 and 2013 calamities are

yet to receive any compensation and there is wide scale corruption in the distribution of the compensation to the victims. It is also important to mention here that because of different standards for the compensation for the victims of 2012 calamity and 2013 calamity, there is a situation of unrest amongst similarly placed victims divided by two different tragedies. True copy of the Government Order No. 475/XVIII-(2)/F/13-4(27)/2010 dated 27.06.2013 is annexed herewith and marked as **Annexure P-8** (Page No. _____ to _____).

24. Nevertheless, the payment of compensation was not done in accordance with the policy, and there were widespread protests regarding payments being made to persons who ought not to have received compensation, corruption in the system, and so on. The details in respect of corruption in the payment of compensation are at pages _____ to _____. Nevertheless, the payment of compensation was not done in accordance with the policy, and there were widespread protests regarding payments being made to persons who ought not to have received compensation, corruption in the system, and so on. In this connection several letters were written by prominent people including the Petitioners herein indicating the wide-scale corruption in the distribution of compensation to the victims of the 2012 and 2013 calamities. It is alleged that the Regional

Patwaris and Governmental Officials, instead of going to the affected areas in Ganga Ghati, listed the areas by sitting in the office in town of Gangori. Many of the actual affected families have been left out in the listing of affected families and also in distribution of compensation. In this connection the letters dated 20.11.2013 and 25.01.2014 were written by the President, All Flood Affected/ Victims Committee, Gangori. True copy of the letter dated 20.11.2013 written by the President, All Flood Affected/ Victims Committee, Gangori is annexed herewith and marked as **Annexure P-9** (Page No. _____ to _____). True copy of the letter dated 25.01.2014 written by the President, All Flood Affected/ Victims Committee; Gangori is annexed herewith and marked as **Annexure P-10** (Page No. _____ to _____).

25. The next issue relates to transparency in the spending of funds by the state after the last year's disaster. It appears that approximately Rs. 7,000 crores came into the coffers of the state from various sources during and after the disaster. The state demanded a further amount of Rs. 13,800 crores. There is no transparency whatsoever as to how this money has been spent. A study of the work on the ground indicates that very little work has been done and that the work that has been done is of poor quality. There have been widespread protests

regarding the inactivity and unconcern shown by the state government. By way of an example, in Uttarkashi alone from October 2013 to December 2013 a dharna was continuously organized.

26. It appears that the Geological Survey of India submitted a report to the state government two months ago regarding the stability of the various areas and recommendations have been made. This report is not in possession of the petitioners but it appears that very important recommendations have been made regarding emergency work that should be taken up. Similarly, the State Irrigation Department has written several letters to the government putting on record the work that is required to be done in their areas together with the budget required. In most of these cases, there was no positive response from the state government and if at all moneys have been allocated these have been small amounts as compared to the resources required so as to make it impossible for the work commenced to be completed.

27. The most recent developments are that the Ministry of Environment and Forest (MOEF), Government of India, has filed in the Supreme Court in the Alaknanda matter (supra) that they have formulated a "Himalayan Policy" in the context of Uttrakhand.

28. A further development relevant to the present case is that a 100 kilometer stretch in the Gangotri valley from Gomukh to Uttarkashi has been notified as an "Ecologically Sensitive Zone" dated 18.12.2012. The said notification has not been implemented for the last two years and even the provision for the notification of a "Zonal Master Plan" for the specified area has not happened. True copy of the notification dated 18.12.2012 is annexed herewith and marked as **Annexure P-11** (Page No. _____ to _____).

29. Due to deep rooted corruption in the state, security of the local people and conservation of the environment has continuously been compromised. Now the situation has become very critical in most of the places in upper reaches. Incompetency of state government has been proved time and again and condition of damaged region are going to be very critical therefore, it is important to immediately take appropriate steps to take remedial actions so that there is preparedness before the onset of monsoon to avert any similar calamity.

30. Hence Army is needed to be deployed urgently on following places in Char-Dham valley.

a. In all Char-Dham temple areas to monitor and control the movements.

- b. In all danger zones identified by DMMC and GSI, some of which are identified as danger zones near Main Central Threat (MCT) and para-glacial zones are urgently required to be undertaken under Army monitoring. Char-Dham townships areas (Kedarnath, Gangotri, Yamunotri and Badrinath) and the valleys are located geologically/ meteorologically in a High Hazard Terrain. The natural moronic dams at glacial lakes and the volume of lakes must be constantly monitored to avoid such devastations.
- c. In Kedar valley the area around Agastmuni, Kalimath, Phata and entire Kedarnath upto Gaurikund and Sonprayag needs to be handed over to Army for Landslide/ flood monitoring and treatment and other safety/ Highway related works which are on going and special task forces should be employed as a precaution for any emergency during monsoon in these areas.
- d. In Gangotri Valley the entire work related to safety of Uttarkashi town and Asi-Ganga valley should be immediately handed over to Army. The work related to channelization of the Rivers in danger zones and near residential areas should also be taken care of by the Army. Army should be deployed in Asi-Ganga valley, Bhatwadi area (close to MCT) and all valleys near para-

glacial zone (Dabrani, Sukkhi, Jhala, Dharali, Bahironghati) around Gangotri to monitor the landslides and flash-flood areas to prevent any big mis-happening and for precautionary measures during an emergency to provide help for the people in the vicinity.

- e. In Yamunotri Valley, the on-going work near National Highway and residential places especially in Kharadi and above should be handed over to Army immediately. Places like Hanuman Chatti, Syana-Chatti and tributaries like Hanuman Ganga and all other paraglacial streams in the catchment of Yamuna River should be taken under regular monitoring system by Army as a necessary prevention.
- f. In Badrinath valley the entire stretch above Joshimath (near MCT) is very sensitive and highly prone to disaster, geological activities here should be monitored to prevent such devastation along with protection works. All marked 21 danger zones on Badrinath Highway needs to be monitored and movement should be controlled and regulated.
- g. Most importantly there should be monitoring and regulation of excessive tourist inflow in these valleys during Char-Dham Yatra. This important task should also be handed over to Army in 100 Km stretch below each Dham. Because composite landslides rock failure is

preceded by/ sliding of overburden. Therefore, tourist inflow/ heavy vehicular traffic should not be centralized and to prevent excessive ecological burden on these sensitive places and alternate evacuation and safety paths during crisis should be planned and taken care of by Army in this sensitive stretch of 100 KM. A contingency disaster management plan should immediately be planned and implemented during this yatra before monsoon.

- h. All works should be handed over to army in sensitive areas prone to landslide/ landsinking (shown in pictures) in Char-Dham Yatra route and care should be taken by army to regulate and manage the yatra.

GROUNDS

31. Based on the facts and circumstances of the instant petition, the Petitioners herein are filing the instant petition, inter alia, on following grounds:

- a. Because the inappropriate actions and inaction of the Respondents is in violation of Article 21 of the Constitution of India.
- b. Because the Respondents have failed to appreciate the fact that there is a possibility of existence of similar circumstances in the ensuing monsoon that may lead to similar natural calamity that happened in the previous years

in the state of Uttarakhand particularly in the years 2012 and 2013. The State Respondents have shown very less or no interest in making efforts to ensure preparedness to avert or manage any such calamity that may occur in ensuing monsoons.

- c. Because, the Respondents have not yet framed the fundamental policies for land, water, forest and pilgrim/ tourism. That is why the way of irregular developmental activities has put an immense pressure on the ecology of the state and to make such environment more susceptible for disasters.
- d. Because due to lack of policy and therefore lack of competent implementing agency, all disaster related work like protection wall, river channelization, land slide treatment, road construction and the way of all developmental projects are badly compromised and hence corruption has deeply been rooted in each and every safety work.
- e. Because local people were not properly compensated, public related works (like making of bridges, link roads, protection wall etc.) are done temporary in most of the places, very slow in some places and has completely ignored in many places.

- f. Because even the major protection works has been delayed and started very late (After February, 2014). Communication from district administration shows that the state has delayed and not provided the required amount for protection works in the affected places at time. Such irresponsible and insensitive behaviour towards the most affected areas have put a grave threat and danger to complete the protection works before monsoon.
- g. Because the Char-Dham pilgrimage routes are not protected from the river sides in many stretches and no protection wall/ channelization has been done. No treatment of heavy landslides has even been initiated by government and therefore numbers of such danger zones are left untreated and open.
- h. Because in the city/ town areas channelization work has been started very late and without any proper plan and policy. Huge amount of River Bed Material (RBM) is therefore placed randomly along the river channel. If this channelization is not managed properly, it could have aggravate the monsoon flow of river and create a danger and grave threat towards the river banks during the high discharge of the river in monsoon.

- i. Because the Char-Dham pilgrimage route has been badly affected and to just clear the way is only temporary, in most of the places the long stretches of Char-Dham highway are in immense danger of landslides/ land-sinking from both upper as well as lower side, even a normal rain could create a havoc in such stretches. In such a great danger, Char-Dham is highly risky especially on the route of Kedarnath and Gangotri.

- j. Because all the disaster related important works are running without any proper plan and policy. Most of the works should have been started at the end of monsoon 2013 but initiated only in March 2014 without any policy/ plan/ competent implementing agency and public participation/ monitoring. Therefore such works are just a formality, an eye-wash and misuse of Nation's money and resources.

- k. Because no exercise has been initiated till now for the planning to restore the ecology of highly affected critical areas.

- l. Because the Highways are badly affected and has become very unstable in most of the long stretches, in some

stretches condition is very critical and vulnerable due to fresh created landslides and state has even not declared the planning/policy to treat the landslides.

m. Because the safety/ protection works are going with very slow and corrupt processes, many works like channelization has no scientific manner and has been carried out randomly.

n. Because no public monitoring system has been formed for check and balance, even no any govt. monitoring system is efficiently active to check the works, violation of norms are therefore clearly visible.

o. Because already most of the protection/ relief/ highway works has been started very late with inefficient manner and without policy. Moreover the political class of Uttarakhand has engaged themselves in lok-sabha elections 2014. This has further compromised the quality and movement of the works.

p. Because there are many fresh and dangerous landslides that has been activated along the river after June 2013. Such big landslides holds a massive amount of loose-mass (debris with big boulders and fallen trees) which could come down and block the rivers or its tributaries and

therefore could create the flash flood. There is immense danger to aggravate flash-floods in monsoon which can severely affect the downstream. Unfortunately there is complete ignorance and disaster-preparedness plan in this regard.

q. Because even after June 2013, there was no policy for disaster/ flood relief or protection work has been formed in this disaster prone state by Govt. of Uttarakhand to mitigate the potential dangers and consequences related to cloudbursts, landslides and flash-floods. After Ukhimath disaster of Septmeber 2012 DMMC strongly recommended to ban the blasting activities in such areas but it was ignored and nothing has been initiated in this regard. Even now numbers of hydro projects and road projects are engaged in massive blasting activities to complete their projects faster.

r. Because despite of continuous alarms of disasters during past years, the Government of Uttarakhand has completely failed to even acknowledge and plan for such eco-sensitive state in its entire perspective. Some of the post 1970 natural calamities are listed here: Tawaghat landslide (1977, killed 44 people), Bhagirathi valley landslide and flood (1978, killed 25), Kuntha landslide (1979, killed 40+), Gyansu landslide (1980, killed 45), Karmi landslide and

flood(1983, killed 37), Neelkanth Mahadev near Laxman Jhula landslide (1990, killed 100), Uttarkashi earthquake (1991, killed 737+), Forest Fires of 1996, Mad Maheshari-Kali Ganga flood (1998, killed 100+), Malpa landslide (1998, killed 250+), Chamoli earthquake (1999, killed 100+), Varunavat landslide (1998, damaging houses), Kosi flood (2010), Forest Fires of 1996, 2006, 2008, La-Jhakla cloud burst (2009, killed 33), Heavy rain/flood/landslide 2010 in Haridwar and Kumaon, Assi Ganga cloudburst /landslide and flood (2012, killed 29+), Ukhimath landslide (2012, killed 69) and many other disasters).

- s. Because, keeping in mind the environmental and the socio-cultural significance of this area, the Respondents have failed to develop appropriate plans and policies that would portray a fine balance of conservation and sustainable development of this region. In view of the environmental & the socio-cultural significance, the complete absence of some very basic policies (such as water, power, forest, pilgrim/ tourism) that should' have laid the foundation of development which facilitates preservation/conservation of this sensitive area. Moreover at each and every step govt. of Uttarakhand and entire efficient political class has also failed to restore/rebuilt the affected areas and to relief the

disaster affected people, is clearly indicating towards a governance failure.

t. Because if immediate action is not taken, the rains commencing in the ensuing monsoon may cause widespread damage to lives and properties all across the state and the fragile ecosystem of the State of Uttarakhand would get damaged permanently.

u. Because the Petitioners have approached the concerned authorities several times in connection with the issues raised in this petition, which have also been referred to in this petition. However there is no response from the authorities.

v. Because the Petitioner has not filed any other petition before any other Court seeking similar relief as prayed in this petition.

w. Because the Petitioners have no other efficacious remedy available to them than to approach this Hon'ble Court.

PRAYERS

32. In view of the facts and circumstances of the instant petition, the petitioners are praying before this Hon'ble Court, inter alia, for following reliefs:

- i. For a writ of mandamus or any other appropriate writ, order or direction to the respondent no. 2 to forthwith instruct the Indian Army to visit the sites pointed out by the petitioner in this petition at paragraph 30 read together with the areas at pages ___ to ___ where, according to the petitioner, emergency work is required to be done, and to also visit the other sites as pointed out by the Geological Survey of India in their report to the state government (as mentioned in paragraph ____ of this petition) as well as any other site brought to their notice by any person or authority and to forthwith and with utmost expedition carry out the construction work so as to prevent any loss of lives or destruction to property during the monsoons.

- ii. For an order directing the Union of India to forthwith provide all such finances and other material aid as are required by the Indian Army without any demur, in order to ensure that lives are not lost and properties are not destroyed during the monsoon, with liberty to the Union of India to recover such amounts from the state of Uttarakhand in accordance with law.

- iii. For an order directing the state of Uttarakhand to provide all such finances and material assistance as is required by the Indian Army and by the state authorities

doing emergency construction and other works to prevent loss of lives and damage to property.

- iv. For an order directing the Union of India to forthwith instruct the Border Road Organisation to collaborate with the Indian Army to carry out all the works indicated as in prayer clause (i).
- v. For an order directing the setting up of a High Powered Task Force headed by a senior officer of the Indian Army containing such experts including local experts to oversee and monitor the work required to be done.
- vi. For an order directing the Union of India and the State of Uttarakhand to forthwith jointly review the decision of the state of Uttarakhand to commence the Char Dham yatra and to communicate this decision to the Supreme Court within one week from today.
- vii. For an order directing the National Disaster Management Authority and the Uttarakhand State Disaster Management Authority to forthwith put on record that the steps that are urgently required to be taken and the finances that are urgently required to be made available in order to ensure that during the coming monsoon lives are not lost and properties not destroyed.

- viii. For an order directing the Geological Survey of India to put on record the various reports prepared regarding the stability and safety of the areas in the Kedarnath, Gangotri, Yamunotri and Badrinath valleys.
- ix. For an order of this Hon'ble Court setting up a "High Powered Committee" to monitor the implementation of the orders passed by this Hon'ble Court in this matter as well as to conduct enquiries and make recommendations.
- x. For an order directing the Comptroller and Auditor General to forthwith audit the entire records of the Union of India and the state of Uttarakhand regarding the grants, donations and the like made to the state of Uttarakhand in connection with the disasters that took place in the state from 2010 onwards, as well as the payment of compensation made by the state, and to make a report to this Court within a specified period.
- xi. For an order directing the respondents 1 to 4 to produce before this Hon'ble Court the policy of the state government regarding tourists and pilgrims as well as the policies relating to land, water, energy and forests and for this Hon'ble Court to issue guidelines in this

regard to ensure a sustainable environment and the safety of all.

xii. For an order identifying the persons responsible for the inaction on the part of the Respondents nos. 1 to 4 and for appropriate orders of punishment/ prosecution if deemed necessary.

xiii. For an order directing the respondents 1 and 2 to disclose what rehabilitation was done and what compensation was paid for the families of the victims of the 2012 and 2013 disasters and to issue guidelines and directions in this regard.

xiv. For any other or direction that this Hon'ble Court may deem fit and appropriate in the interest of justice and in the facts and circumstances of the instant petition.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER AS IN DUTY BOUND SHALL EVER BE GRATEFUL.

Filed by

(Jyoti Mendiratta)

Advocate for Petitioners

Drawn by: Mr Divya Jyoti Jaipurkar, Adv.

Place: New Delhi

Drawn on:

Filed on:

BEFORE THE HON'BLE SUPREME COURT OF INDIA

(Civil Writ Jurisdiction)

(Under Article 32 of the Constitution of India)

I.A. NO. _____ OF 2014

IN

WRIT PETITION (CIVIL) NO. _____ OF 2014

In the matter

Keshar Singh Panwar and others ... Petitioners

VERSUS

State of Uttarakhand and others ... Respondents

APPLICATION UNDER SECTION 151 OF CODE OF CIVIL

PROCEDURE, 1908 FOR DIRECTION

To

The Chief Justice of India and

His Companion Justices

Hon'ble Supreme Court of India

Delhi

Humble petition of the

Petitioner above-named

Most respectfully showeth:

1. That the Petitioner herein has filed the accompanying Writ Petition before this Hon'ble Court seeking immediate relief in view of the facts and circumstances of the natular calamities that struck the state of Uttarakhand in the years 2012 and 2013. There is every possibility that the calamity may strike

again as there is no preparedness by the state of Uttarakhand and other Respondents in this regard. However the contents of the accompanying petition is not repeated herein for the sake of brevity. However the same may be read as part and parcel of this application as well.

2. That in August 2012 there was a flash flood that occurred in Asi-Ganga which is a tributary of Ganga-Bhagirathi River in Uttarkashi. This has caused a loss of around 40 human lives and massive loss of residential complexes, land, bridges, domestic animals and had posed a threat to entire Uttarkashi town due to deposition of large amount of debris all along the river bed of Bhagirathi. There were massive damages that happened in Kharadi area of Yamuna valley on the same time.
3. Unfortunately the relief and protection work to save the nearby areas of Uttarkashi has started very late (in March 2013) with lot of corruption and without efficient monitoring. The work of protection walls which was started during March 2013 was full of corrupt practices under irrigation department, there were wide spread protests and news paper reports exposing such acts and finally the whole late started work was further compromised. Rather than taking a strong action against culprit irrigation officials, Respondent State just only transferred those officials on another place. As a result when flood happened in

June 2013, already untreated debris and compromised work has further aggravated the river flow and therefore caused massive devastation in Uttarkashi town. If the disaster management work was properly done a big loss would have been avoided in Uttarkashi town. The same has happened in Yamuna valley near Kharadi. Because no work has been executed last year, the aggravated River has caused a lot of damage and loss of property and Yamunotri National Highway.

4. In September 2012, a big cloud bust event happened in Ukhimath area of Mandakini valley that caused loss of about 60 human lives and number of houses, agricultural land were washed away. After this disaster of 2012 State DMMC has given a report to Respondent State but recommendations of DMMC has still become a wild goose chase.
5. The entire Alaknanda and Bhagirathi basins (A-B basins) in Uttarakhand experienced the intense rainfall during June 15-17, 2013 which precipitated on an average about 250 mm to 400 mm in many parts of Uttarakhand during this spell. The upper basins of Bhagirathi, Alaknanda and its tributary Mandakini which have a glacial spread of about 2000 square kilometre, received heavy rainfall between June 15 and June 17. The entire region from Gangotri to Paonta-Sahib in the west to the Kali River in the east received heavy to extremely heavy rainfall

over a period of 48-72 hours between June 15 and June 18, 2013. According to Indian Metrological Department's (IMD) analysis of this severe storm, "wide spread very heavy to extremely heavy rainfall occurred over Uttarakhand and neighbouring states during 16-18 June 2013. This has caused severe flood, landslides, large scale loss of lives, properties and damages." The analysis said that anthropogenic activities has also led to massive over-exploitation of the local environment, thereby loosening the top soil and making the region susceptible to landslides and flash floods.

6. The stretch around Yamunotri, Gangotri, Kedarnath, Badrinath and Nandadevi Biosphere Reserve/ National Park received heavy rainfall and the consequential catastrophic flood originating from Chorabari lake outburst in conjunction with massive landslides and flash-floods principally in the Mandakini, upper Bhagirathi and Alaknanda basins ravaged Uttarakhand.
7. That the petitioners have annexed some photographs to indicate that there is absolutely no preparedness on behalf of the respondents in order to avert any such calamity as it happened in the previous years. The photographs clearly indicate that the debris of the previous years calamity are yet to be cleared, the roads are yet to be repaired and the stones and

loose mountains are yet to be treated. The Respondents have completely failed to take appropriate remedial steps to prevent any such calamity in the upcoming monsoons.

8. That in view of the facts and circumstances, the Petitioners herein are seeking immediate attention of this Hon'ble Court and appropriate directions to the Respondents to take appropriate steps on war footing.

PRAYER

9. In view of the facts and circumstances of the instant petition, the Petitioners pray before this Hon'ble Court as under:
 - i. For a writ of mandamus or any other appropriate writ, order or direction to the respondent no. 2 to forthwith instruct the Indian Army to visit the sites pointed out by the petitioner in this petition at paragraph 30 read together with the areas at pages ___ to ___ where, according to the petitioner, emergency work is required to be done, and to also visit the other sites as pointed out by the Geological Survey of India in their report to the state government (as mentioned in paragraph ___ of this petition) as well as any other site brought to their notice by any person or authority and to forthwith and with utmost expedition carry out the construction work so as to prevent any loss of lives or destruction to property during the monsoons.

- ii. For an order directing the Union of India to forthwith provide all such finances and other material aid as are required by the Indian Army without any demur, in order to ensure that lives are not lost and properties are not destroyed during the monsoon, with liberty to the Union of India to recover such amounts from the state of Uttarakhand in accordance with law.
- iii. For an order directing the state of Uttarakhand to provide all such finances and material assistance as is required by the Indian Army and by the state authorities doing emergency construction and other works to prevent loss of lives and damage to property.
- iv. For an order directing the Union of India to forthwith instruct the Border Road Organisation to collaborate with the Indian Army to carry out all the works indicated as in prayer clause (i).
- v. For an order directing the setting up of a High Powered Task Force headed by a senior officer of the Indian Army containing such experts including local experts to oversee and monitor the work required to be done.

- vi. For an order directing the Union of India and the State of Uttarakhand to forthwith jointly review the decision of the state of Uttarakhand to commence the Char Dham yatra and to communicate this decision to the Supreme Court within one week from today.
- vii. For an order directing the National Disaster Management Authority and the Uttarakhand State Disaster Management Authority to forthwith put on record that the steps that are urgently required to be taken and the finances that are urgently required to be made available in order to ensure that during the coming monsoon lives are not lost and properties not destroyed.
- viii. For an order directing the Geological Survey of India to put on record the various reports prepared regarding the stability and safety of the areas in the Kedarnath, Gangotri, Yamunotri and Badrinath valleys.
- ix. For an order of this Hon'ble Court setting up a "High Powered Committee" to monitor the implementation of the orders passed by this Hon'ble Court in this matter as well as to conduct enquiries and make recommendations.

x. For any other or direction that this Hon'ble Court may deem fit and appropriate in the interest of justice and in the facts and circumstances of the instant petition.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER AS IN DUTY BOUND SHALL EVER BE GRATEFUL.

Filed by

(Jyoti Mendiratta)

Advocate for Petitioners

Place: New Delhi

Filed on:

BEFORE THE HON'BLE SUPREME COURT OF INDIA

(Civil Writ Jurisdiction)

(Under Article 32 of the Constitution of India)

I.A. NO. _____ OF 2014

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WRIT PETITION (CIVIL) NO. _____ OF 2014

In the matter

Keshar Singh Panwar and others ... Petitioners

VERSUS

State of Uttarakhand and others ... Respondents

**APPLICATION UNDER SECTION 151 OF CODE OF CIVIL
PROCEDURE, 1908 FOR SEEKING EXEMPTION FROM FILING**

OFFICIAL TRANSLATION OF DOCUMENTS

To

The Chief Justice of India and

His Companion Justices

Hon'ble Supreme Court of India

Delhi

Humble petition of the

Petitioner above-named

Most respectfully showeth:

1. That the Petitioner herein has filed the accompanying Writ Petition before this Hon'ble Court seeking immediate relief in view of the facts and circumstances of the natural calamities that struck the state of Uttarakhand in the years 2012 and 2013.

There is every possibility that the calamity may strike again as there is no preparedness by the state of Uttarakhand and other Respondents in this regard. However the contents of the accompanying petition is not repeated herein for the sake of brevity. However the same may be read as part and parcel of this application as well.

2. That certain documents that the Petitioner relied upon in this petition and also annexed in these petitions, were in vernacular Hindi. These annexures are P-1, P3- to P-10, which were in vernacular Hindi. However in view of the emergent nature of the Petition, the Petitioners could not get these documents translated by official translator. However these documents have been translated by those persons who have knowledge of both vernacular Hindi and English and have also translated documents in past as well.

PRAYER

3. In view of the facts and circumstances of this instant application, the Petitioner prays before this Hon'ble Court as under:
 - a. For and order to exempt the Petitioners from filing official translation of the Annexures P-1 and P-3 to P-10.

b. For any other or direction that this Hon'ble Court may deem fit and appropriate in the interest of justice and in the facts and circumstances of the instant petition.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER AS IN DUTY BOUND SHALL EVER BE GRATEFUL.

Filed by

(Jyoti Mendiratta)

Advocate for Petitioners

Place: New Delhi

Filed on: