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Dated : 11/11/2019

The Hon'ble Chief Justice
High Court of Uttarakhand
Nainital

Re: Difficult topography of High Court at Nainital

In continuation to the previous correspondence in regard to shifting the place of High Court from Nainital to a more suitable place, convenient to all, the Judges, the High Court Staff, the Advocates and most importantly, convenient and approachable to the person seeking justice by means of the legal remedies.

My Lordship

The Nainital is a tourist city which was developed during the British regime to rule over the Indian people in a pleasure environment for rulers, not for the citizen. Nainital used to be Summer Capital of British Government and the Britishers had developed the mountain cities like Nainital, Mussoorie, for enjoying their personal life and not for the benefits of the people of Kumaun and Garhwal.

After creation of state of Uttarakhand on November 9, 2000 when the place of sitting of High court was under consideration, the then Chief Justice Hon'ble Ashok Desai, J. was also of the opinion that the Nainital would not be suitable for the High Court because of the following reasons:

Weather- No one can deny Nainital is a beautiful place and has a beautiful weather during the summer and autumn season but still the winters and the rainy season which remains in Nainital for about 7-8 months are very chilly and heavy landslides happen during rainy season and on top of it, it is still a tourist place. People come here mostly for a change in their life, to come out of their busy schedule but today, Nainital is a busy place: Hours of traffic jam, countless cars and people- the accommodation in Nainital, no doubt is less than the visitors and that's why the exorbitant rates of the hotels. And just consider that in a scenario for a person who is actually coming to Nainital in search of justice and is unnecessarily looted in the name of lodging and food, just because it is a tourist place.

Transportation- Nainital is not connected through rail node, the most basic facility that a person in search of justice or for any other reason would be availing. The nearest railway station is Kathgodam which is 40 kms from the High Court of Nainital. Also there is no doubt that there is not enough public transportation to carry people from Kathgodam to Nainital, so the only option left to the 90% of people travelling to Nainital is through various taxi services which again charges them way ahead of the normal rates and in scenarios like of landslide, heavy rainfall, strikes, etc., these charges go upto Rs.

500 per person (from Kathgodam to Nainital). Furthermore, High Court do not even have ample parking space for its practicing advocates. Because of the irregular parking space, the traffic jam is imminent in the area adjoining to High Court.

Medical facilities and other amenities- Medical facilities is one area Nainital completely lacks in. Even for the highest officers of the State, there is no proper treatment available- neither medication nor the machines. Everyday people are being referred to Haldwani because a proper treatment of the disease is not available in Nainital. Even the market of the Nainital is just vast enough to have the day to day needs of the people of normal circumstances, i.e., people who are in the best of their healths.

Therefore, while the sitting of place of High Court was under consideration after the formation of the State of Uttarakhand, His Lordship, the then Chief Justice of Uttarakhand High Court, Hon'ble Ashok Desai J. was of the opinion that the building of Hindustan Machine Tools (hereinafter referred as to the HMT) can easily be taken up for the same as there are ample buildings, accommodation and houses that too next to railway head.

While bringing these all these facts into the notice of your Lordship, we should not forget bringing into the knowledge of your Lordship that object of making High Court at District Nainital is to provide balance between two zones of Uttarakhand (then Uttaranchal)- Kumaun Region and Garhwal Region. Hence on the date of creation of State, it was decided that if district Dehradun gets Capital of the State than District Nainital should get the High Court of the State. **We would also like to clarify that the HMT is within the district of Nainital and hence there won't be any formal change in the caption.**

Also during the recent times, the following facts have come to the surface for further consideration of the Lordship, apart from the above mentioned facts.

Further expansion- No doubt, there is no area for the expansion. The High Court Colony is not situated close to High Court and it's just the story of the High Court employees, just give a thought for the people who have their litigations here and come from all around Uttarakhand and are forced to pay exorbitant prices of food and lodging in the city of Nainital. In the current scenario when the population of the whole country is on the rise, no doubt the number of practising advocates of this High Court will also rise. How the current structure of the High Court will cope up with that increased load is a question of grave concern.

Danger Zone- Another fact that has come onto the surface in the recent times is Danger Zone. People with unregistered agreements, no maps, no proper legal procedure have constructed house in an improper and illegal manner that has put the whole of Nainital into Danger Zone. A writ petition P.I.L. of the same is already pending before the High Court in which directions to rehabilitate people has already been given considering the Danger they have put themselves into and also others.

Heavy land sliding- Due to the geographical conditions of the Nainital, land sliding has emerged as one of the biggest crisis factors. Had the JPC machine not been there on every 10 mile range on the National Highway connecting Nainital and Haldwani, the supply of the daily necessities to most Hill areas of Kumaun Region would have been closed for at least a period of 2 months (in total) in a year. But even under such facilities, the simple fact that there is imminent danger of landslide cannot be ignored (as shown in the past and in recent times).

In the recent times as we can see, Judges of the different High Courts hesitate in coming to Nainital because of the weather and lack of medical facilities. Even at the current situation, we are having just 6 sitting judges against the proposed 11 judge strength. Furthermore, most of the Judges of this Uttarakhand High Court have been either through the promotion from District Judge or the practicing advocates of this High Court, the Judges from other High Court hesitate coming to Nainital because of its geographical conditions and lack of medical facilities and because of which, the work in the Uttarakhand High Court suffers a lot. Considering this aspect as well, we actually need a place that has its geographical conditions similar to most of the other High Courts of the country.

However there still remains a big question as to what will happen to the current infrastructure of the High Court. However a proposed National Law University in the District Nainital is already under construction and what could be a better place to it from the place which already has so many landmarks decision in the history of Uttarakhand. The infrastructure of the High Court can be converted/ transferred to the National institute of Law, as Nainital from the very past of it had been and still a good place for students, apart from tourism.

That HMT should be allotted to the High Court so far as the status of High is concerned HMT is within the Tehsil Nainital as well as the District is same. There is also a separate way to the HMT which in no way disturbs either the National Highway, or the roads connecting to Bhowali or Bhimtal. Furthermore the HMT is big enough to accommodate the current infrastructure of the High Court including colonies for the High Staff and all its members as well as can also accommodate future expansion prospects of the High Court. This will also resolve the problem of the proposed Bench of this Hon'ble High Court at Garhwal Region. Also It is around 5 km from Kathgodam railway station and within 10 km range of Haldwani, which clearly shows that how well it is connected to the rail node and since a proposed Inter State Bus Terminal is already under construction, it is connected through road as well. Also the nearest airport is the Pantnagar. In all manners, the HMT is an ideal place to shift the High Court.

That so far as the other amenities are concerned like medical and other facilities, even after a period of 16 years of creation of State of Uttarakhand, one can realize that the people of Nainital whether, litigants, Judges, lawyers, staff etc. are dependent upon Haldwani city. No doubt in the district Nainital, there can be any place better than Haldwani (or close to Haldwani) for shifting the High Court as there are good hospitals, education institutions, market and last but not the least, scope of expansion.

Therefore if your Lordship deem fit and proper, at present the building of HMT is even available and is already officially closed by the Union Government and hence, not very difficult if not very easy to be used for the purposes of the judiciary and the expansion of this High Court.

We request your Lordship to give a thoughtful consideration in the matter. We, of course understand that it is not easy but at the same time considering the future prospects of people of State of Uttarakhand, we feel that no one would be against the objective if the High Court is shifted to HMT from Nainital.

Thanking You.

Yours faithfully
M. C. Kandpal
M. C. Kandpal (Sr. Advocate)

Convener, Uttarakhand Advocate Front

Copy to the following for giving thoughtful consideration:

- His Excellence President of India, New Delhi-110001
- The Hon'ble Prime Minister of India, New Delhi-110001
- The Hon'ble Chief Justice of India, Supreme Court, New Delhi-110001
- The Hon'ble Minister of Law and Justice, New Delhi-110001
- His Excellence Governor of Uttarakhand, Dehradun
- The Chief Minister of State of Uttarakhand Dehradun
- The Law Minister, Government of Uttarakhand Dehradun
- Bar Council of India, New Delhi-110001
- Bar Council of Uttarakhand, Nainital- 263001