



सत्यमेव जयते

# UTTARAKHAND COURT NEWS

(A Quarterly News letter)

Vol-VI Issue No-1 (January to March, 2015)



## High Court of Uttarakhand, Nainital

### EDITORIAL BOARD

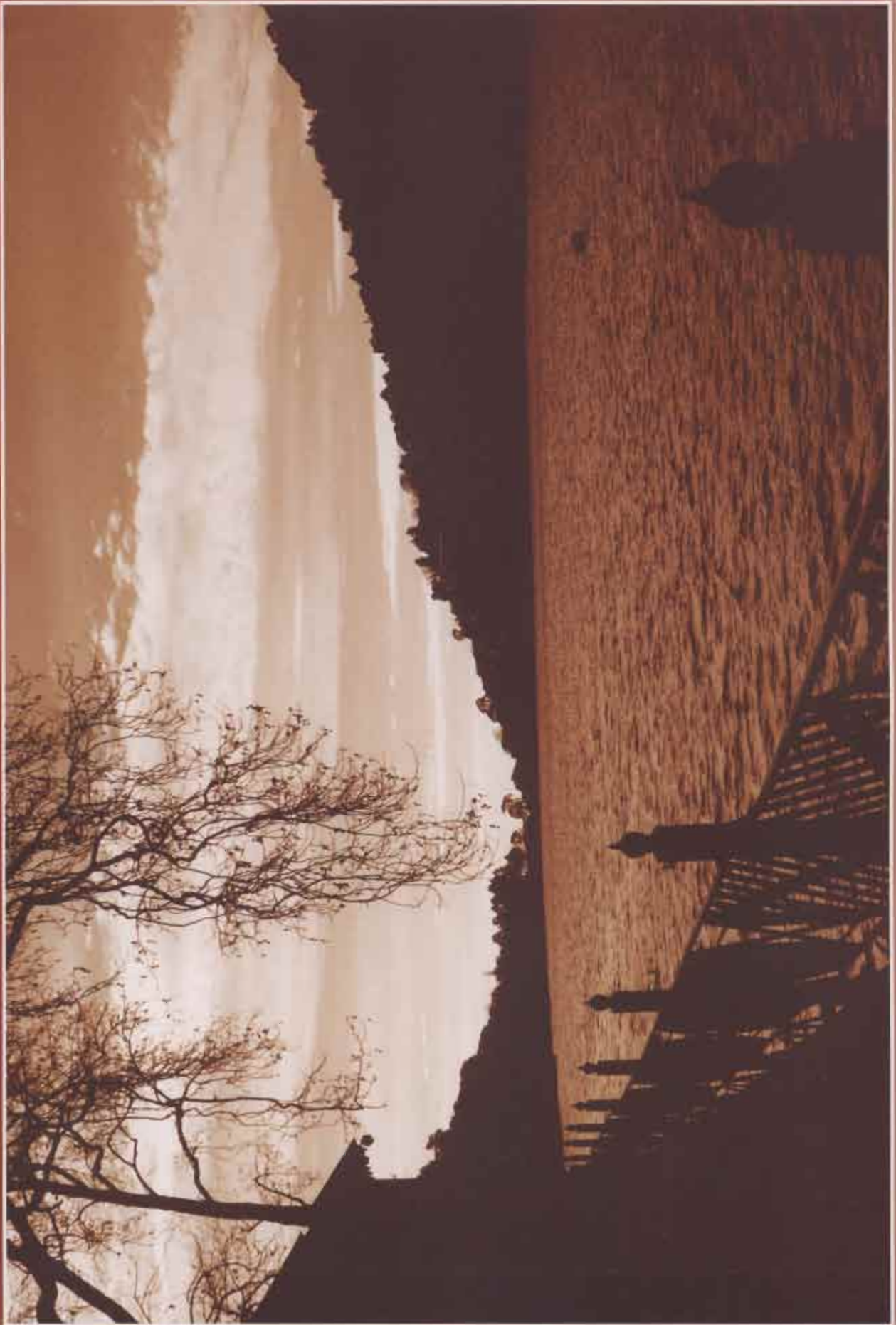
Hon'ble Mr. Justice Sudhanshu Dhulia  
Hon'ble Mr. Justice U. C. Dhyani

### COMPILED BY

D.P. Gairola, Registrar General, High Court of Uttarakhand

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Nainital

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**UTTARAKHAND HIGH COURT****LIST OF JUDGES (As on 1<sup>st</sup> January, 2015)**

<b>SL. No.</b>	<b>Name of the Hon'ble Judge</b>	<b>Date of Appointment</b>
➤	<b>Hon'ble Mr. Justice K.M. Joseph (Chief Justice)</b>	<b>31.07.2014</b>
➤	<b>Hon'ble Mr. Justice V.K. Bist</b>	<b>01.11.2008</b>
➤	<b>Hon'ble Mr. Justice Sudhanshu Dhulia</b>	<b>01.11.2008</b>
➤	<b>Hon'ble Mr. Justice Alok Singh</b>	<b>26.02.2013</b>
➤	<b>Hon'ble Mr. Justice Servesh Kumar Gupta</b>	<b>21.04.2011</b>
➤	<b>Hon'ble Mr. Justice Umesh Chandra Dhyani</b>	<b>13.09.2011</b>

\* \* \* \* \*



CHIEF JUSTICE

HIGH COURT OF UTTARAKHAND

Nainital – 263001

*K.M. Joseph*

**MESSAGE**

It is heartening to note that the High Court is bringing out a Quarterly News letter, containing useful information relating to the Court and Judicial Officers. Information in the form of statistics relating to cases as also recent judgments of the Court is enlightening.

I wish the venture all success.

**(K.M. Joseph)**

**TRANSFERS, PROMOTIONS & APPOINTMENTS OF JUDICIAL OFFICERS**

(January to March 2015)

	<b>Name &amp; Designation of the Officer</b>	<b>Place of Posting</b>	<b>Date of Order</b>
1.	Sri Satan Lal Rajvanshi	Spl. Judicial Magistrate ( S 138 N.I Act) Rishikesh, Dehradun	23.01.2015
2.	Sri Pritam Singh	Spl. Judicial Magistrate ( S 138 N.I Act) Roorkee, Hardwar	23.01.2015
3.	Sri Keshav Prasad Tripathi	Spl. Judicial Magistrate ( S 138 N.I Act) Hardwar	23.01.2015

\* \* \* \* \*

**INSTITUTION, DISPOSAL AND PENDENCY OF CASES**

➤ **HIGH COURT OF UTTARAKHAND (from 01.01.2015 to 31.03.2015)**

						Pendency as on 01.01.2015		
						Civil Cases	Criminal Cases	Total Pendency
						16669	6436	23105
Institution (01.01.2015 to 31.03.2015)			Disposal (01.01.2015 to 31.03.2015)			Pendency as on 31.03.2015		
Civil Cases	Criminal Cases	Total Institution	Civil Cases	Criminal Cases	Total Disposal	Civil Cases	Criminal Cases	Total Pendency
2227	2349	4576	1612	1706	3318	17284	7079	24363

\* \* \* \* \*

➤ District Courts (from 01.01.2015 to 31.03.2015)

SL. No	Name of the District	Civil Cases				Criminal Cases				Total Pendency at the end of 31.03.15
		Opening Balance as on 01.01.15	Institution from 01.01.15 to 31.03.15	Disposal from 01.01.15 to 31.03.15	Pendency at the end of 31.03.15	Opening Balance as on 01.01.15	Institution from 01.01.15 to 31.03.15	Disposal from 01.01.15 to 31.03.15	Pendency at the end of 31.03.15	
1.	Almora	547	130	178	499	921	458	505	874	1373
2.	Bageshwar	120	53	47	126	477	187	272	392	518
3.	Chamoli	318	62	74	306	689	271	310	650	956
4.	Champawat	188	44	59	173	1096	518	565	1049	1222
5.	Dehradun	10650	2237	2162	10725	47564	17757	18273	47048	57773
6.	Haridwar	8228	1566	1500	8294	30382	10819	11870	29331	37625
7.	Nainital	2767	464	447	2784	7011	3943	4210	6744	9528
8.	Pauri Garhwal	959	190	164	985	2450	670	812	2308	3293
9.	Pithoragarh	293	79	50	322	749	609	454	904	1226
10.	Rudraprayag	149	23	27	145	1047	459	398	1108	1253
11.	Tehri Garhwal	345	77	78	344	1063	525	553	1035	1379
12.	U.S.Nagar	4715	764	688	4791	21634	5896	6399	21131	25922
13.	Uttarkashi	324	65	64	325	640	385	362	663	988
	<b>Total</b>	<b>29603</b>	<b>5754</b>	<b>5538</b>	<b>29819</b>	<b>115723</b>	<b>42497</b>	<b>44983</b>	<b>113237</b>	<b>143056</b>

\* \* \* \* \*



Some Recent Judgments of Uttarakhand High Court

➤ Family Courts (from 01.01.2015 to 31.03.2015)

SL. No	Name of the Family Court	Civil Cases				Criminal Cases				Total Pendency at the end of 31.03.15
		Opening Balance as on 01.01.15	Institution from 01.01.15 to 31.03.15	Disposal from 01.01.15 to 31.03.15	Pendency at the end of 31.03.15	Opening Balance as on 01.01.15	Institution from 01.01.15 to 31.03.15	Disposal from 01.01.15 to 31.03.15	Pendency at the end of 31.03.15	
1.	Dehradun	1431	371	356	1446	827	190	210	807	2253
2.	Rishikesh	147	56	47	156	134	33	22	145	301
3.	Nainital	448	86	53	481	572	68	62	578	1059
4.	Hardwar	610	153	165	598	528	103	130	501	1099
5.	Roorkee	455	93	94	454	400	130	78	452	906
6.	Pauri	185	50	40	195	230	62	45	247	442
7.	Udham Singh Nagar	709	167	160	716	684	90	83	691	1407
	<b>TOTAL</b>	<b>3985</b>	<b>976</b>	<b>915</b>	<b>4046</b>	<b>3375</b>	<b>676</b>	<b>630</b>	<b>3421</b>	<b>7467</b>

**NOTIFICATION**

**No. 20 /UHC/ Admin. A/2015**

**Dated: February 25, 2015**

In exercise of powers conferred U/S 11(3) of the Code of Criminal Procedure, 1973, the following Judicial Officers of the rank of Civil Judge (Jr.Div.) are conferred with the powers of Judicial Magistrate 1<sup>st</sup> Class to exercise these powers within the district where they remain posted:

S.No	Name of the Officer
1.	Ms. Nazish Kaleem
2.	Ms. Rashmi Goyal
3.	Sri Akhilesh Kumar Pandey
4.	Sri Imran Mohd. Khan
5.	Sri Sachin Kumar Pathak
6.	Ms Durga
7.	Sri Puneet Kumar
8.	Sri Rajesh Kumar
9.	Sri. Dayaram
10.	Rudrapur
11.	Taluk Garhwal
12.	T.S.Nagar
13.	Uttarakhand
	Total

By Order of the Court  
Registrar General  
25.02.2015

\* \* \* \* \*

## Some Recent Judgments of Uttarakhand High Court

### Division Bench Judgments

1. In Spl. Appeal No. 649/2014 *Uttarakhand Public Commission vs State of Uttarakhand & others*, matter relating to service matter in which qualification prescribed by the advertisement or rules . Jurisdiction to interfere with A 226 of Constitution . Hon'ble Single Judge of High Court directed the PSC to constitute a three member committee which would examine computer skill certificates and thereafter computer skill test would be conducted. The Comm. challenged the said order by filing Spl. Appl. The Division Bench while allowing Spl. Appl. observed that since neither the advt. nor the rules had been challenged by the petitioners , the qualification fixed in advt. must be taken as it is & persons who possessed requisite qualification were eligible to be considered by the Comm. And it is not open for the High Court to have issued directions for constituting a committee.
2. In Spl. Appl. No. 42/2015 *Surendra Kumar & anothers vs St. of Utt. & others* , the division bench while disposing the appeal observed that Sec 141 CPC vide Expln. thereof makes it clear that the provisions of CPC as such will not apply to proceedings under A 226 of the Constitution. The writ proceeding is an extra ordinary proceeding of a discretionary nature but after insertion of Expln. in S 141 , there can be no scope for applying the CPC as such. It is further observed that as far as O 41 R 33 is concerned , the purport of power granted to the Appellate Court is to pass an order , which will suit the interest of justice.
3. In Spl. Appl. No 501/2013 *Amrik Singh Vs St. of Utt.* , writ filed by the petitioners stating that they were auction purchasers of different Nazul plots auctioned in public auction and they had deposited ¼ th of the auction money immediately but remaining amount could not be deposited due to the pendency of civil suit and that district administration illegally cancelled the said auction. Hon'ble Single Judge while dismissing the writ observed that under the Govt. Nazul policy , facility of freehold could not be granted to encroachers of Nazul Land. The Division Bench observed that writ court erred in making observation with regard to Govt's nazul policy and writ court should not have entered into the issue of grant of freehold rights to encroachers. The bench further observed that writ court must confine normally to the reliefs, as are claimed in the writ petition. It is not open to the court to overshoot the limits set for it by the litigants in the form of pleadings , which is primarily generated by the pleadings of the writ petitioner in the form of reliefs sought.
4. In Govt. Appl. No. 82/2001 *St. of U.P (now utt.) Vs Ashok Saxena & others*, the respondents were acquitted of the larges levelled against them . The State being aggrieved filed the appeal. After examining the whole case , the division bench reiterated its view that prosecution story is fully supported by the

evidence of PW1 & PW2 and further corroborated by peripheral evidence especially medical evidence. Medical evidence is fully supported by oral evidence. It is further observed that impugned judgment suffers patent illegality and infirmity & liable to be set aside.

5. In Cr. Appl. No 172/2014 *Girish Chandra Joshi Vs St of Utt.*, the appeal has been preferred against the conviction. The bench while disposing the appeal observed that the evidence furnished by the extrajudicial confession made by the accused to witnesses cannot be termed to be a tainted evidence and if corroboration is required, it is only by way of abundant caution. If the court believes the witnesses before whom the confession is made and it is satisfied that the confession was voluntary, then in such a case conviction can be founded on such evidence alone. It is settled law that if extra judicial confession is not obtained by coercion or promise of favour or false hope etc. and plenary and voluntary in nature acknowledging the guilt, it can be acted upon.

### Single Bench Judgments

1. In Cr. W.P No 540/2013 *Jayanti Prasad Deorari vs U.O.I. & others*, the petitioner sought writ of mandamus directing the respondents to transfer the investigation from Civil Police Rishikesh Dehradun to CBI for further investigation in respect of non recovery of the daughter of the petitioner till date who was kidnapped on 12.12.09. The Single Bench while reiterating his view pointed out that chargesheet was filed by the Police against Pawan Raj u/s 363 & 366 IPC with a rider that search for the girl is not closed and is kept on, though about 05 years have passed but State Police is unable to reach to a logical conclusion. The bench while allowing writ petition further observed that it is a fit case where investigation should be transferred from civil police to CBI in respect of non recovery of Km. Himshikha daughter of petitioner, in respect of Case No. 23/2010 at Police Stn. Rishikesh Dehradun.
2. In W. P. No 82/2010, *Mohammad Salim Khan & others vs Fazar Ahmad & others*, the single bench while dismissing the writ observed that an interference is required only where a order of a tribunal or a court is violative of fundamental basic principles of justice and fair play or where a patent or flagrant error in procedure or law has been done or where there is a manifest justice, which requires an interference under A 227 of the Constitution.
3. In Review Appln. 82/2015 in W.P.(M/S) No.135/06 *The Sunni Central Board of Waqf vs The Dty. Director of Consolidation & others*, the single bench while reiterating his view on the doctrine of merger observed that in case, the SLP filed against the order of Hon'ble High Court has been dismissed by Hon'ble Apex Court without assigning any reason, it would not bar the filing of review petition in

Hon'ble High Court because there is no merger of the judgment of Hon'ble High Court in the judgment of Hon'ble Apex Court, but if SLP has been dismissed on any ground, no matter how meager the reasons would be, the order of Hon'ble Court stands merged in order of Hon'ble Apex Court and the review petition cannot be filed in High Court to review its own order.

4. In W.P.No.238/15 *Gram Panchayat, Village Ajeetpur vs St. of Utt.*, Gram Panchayat filed writ petition for a mandamus directing the SDM to evict the trespassers of land vested in Gram Panchayat. The Single Bench observed u/s 122 B of U P ZALR Act if any property vested in Gaon Sabha or a local authority is in illegal possession of any person, the land management committee shall inform the Asst. Collector who can pass order of eviction and may use necessary force for his eviction. Since petitioner had efficacious remedy available issuing mandamus to evict the alleged trespasser without hearing them would be totally unwarranted.
5. In W. P.1194 (M.S)/2009 *Ramesh Chandra Gururani vs St. of Utt. & others*, a maruti van intercepted by police party driven by 'A' and 'B' & 'C' were travelling therein. Illegal liquor recovered which was transported through the vehicle. In the proceeding u/s 72 U.P. Excise Act, the owner replied that he had engaged 'A' as a driver and had not authorised 'A' to transport liquor in the vehicle. 'A' replied that he had no knowledge of the fact that 'B' & 'C' were transporting illegal liquor while 'B' & 'C' replied that illegal liquor did not belong to them and they had no knowledge about the illegal liquor. Collector passed order of confiscation. The Single bench observed that 'A' (driver of vehicle) was agent of owner and also in-charge of vehicle, it could not be said that contraband was being transported without knowledge or connivance of owner/his agent/in-charge of vehicle & no interference was warranted.
6. In A.O. No 139/2008 *United India Insurance Co. Ltd vs Shakir Ali & others*, the issue relates to liability for uninsured trailer. The Tractor was insured and tribunal fastened the liability to pay compensation on the insurance company. It was pointed out that while the tractor was insured, the trailer was not insured as the same was separate motor vehicle and required separate insurance. The single bench while allowing the appeal observed that since the insurance covered only the tractor for the premium charged on the owner and since nothing was paid for the trailer, liability for payment of compensation ought to have been fastened upon the owner of the trailer and not upon the insurance company.
7. In A.O. No 117/2009 *The New India Assurance Company Ltd vs Smt Geeta Devi & others*, the deceased was travelling in a jeep in which the accused persons (named in application for compensation) were also boarded. The accused persons with intent to commit murder of deceased threw him from the jeep and driver intentionally drove the jeep upon him due to which he was seriously injured. Chargesheet submitted against accused persons & they were tried for offence u/s 302 IPC. Tribunal fastened the

liability to pay compensation on the insurer of jeep. The single bench while allowing the appeal of Insurance Co. , held that in view of S 165(1) M. V. Act, compensation could be paid in respect of accidents "arising out of the use of motor vehicles", but in case at hand , the vehicle was misused as a tool for committing murder and the death of the deceased was not an accidental murder, but an intentional act of committing murder.

8. In Cr. Revision No 83/2014 *Smt Maya vs St. of Utt.*, a case related to named FIR against 'A' & 'B'. After investigation chargesheet submitted only against 'B'. During evidence PW1to PW4 named 'A' as co accused in commission of crime. Complainant moved appln. u/s 319CrPC to summon 'A' to face trial which was rejected. That order was challenged in revision. The single bench while allowing revision held that the name of 'A' was already in FIR and she was implicated in commission by witnesses PW1to PW4 and non summoning of 'A' by trial court was per se bad in the eyes of law.

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## Major Events and Initiatives

1. Hon'ble Mr Justice V. K. Bisht , Senior Judge of Uttarakhand High Court was appointed as Acting Chief Justice to perform the duties of the office of the Chief Justice of High Court of Uttarakhand with effect from 15<sup>th</sup> Jan 2015 vide Notification No. K 11019/01/2014 –U S 1 dated 15 Jan 2015 Govt. Of India , Ministry of Law & Justice.
2. As per directions of National Legal Services Authority and under the valuable guidance of Hon'ble the Patron-in-Chief and Hon'ble the Executive Chairman, Uttarakhand State Legal Services Authority, two monthly National Lok Adalats were organized in the various Courts of State of Uttarakhand on 14.2.2015 and 14.3.2015. Before these lok adalats, Hon'ble Executive Chairman had issued detailed guidelines through video conference to all the district legal services authorities, revenue authorities and other authorities concerned. Communications were made with various departments of the Government to make this National Lok Adalat a big success.
3. In the monthly National Lok Adalat held on 14.2.2015, **5629** cases u/s 138 of Negotiable Instrument Act and Recovery Suits were taken up, out of which **1492** cases were disposed of and an amount to the tune of Rs. 7,53,42,396/- was settled. On 14.3.2015, **2205** cases related to Revenue, MNREGA, Land Acquisition Act matters were taken up, out of them **1653** cases were disposed and an amount of Rs. 5,18,13,214/- was settled.
4. To provide legal aid and advice at the doorsteps, legal awareness and sensitization camps were organized through mobile van in districts Tehri Garhwal, Almora and Chamoli during the period from January, 2015 to March, 2015. In the said camps documentary films on the subjects of mediation, lok adalat and legal aid prepared by National Legal Services Authority and State Legal Services Authority were displayed to the common people. The queries raised by the villagers were also solved in these camps.
5. During this period, State Legal Services Authority's mobile van covered **73** villages of the aforesaid districts and **5190** persons were benefited.
6. During the aforesaid visits of mobile van, one Mobile Lok Adalat in each district (total three in number) was also conducted, wherein **23** cases were referred, 5 cases were settled amicably and **Rs. 5,000/-** was realized as fine and **8** persons were benefited.

## UTTARAKHAND JUDICIAL AND LEGAL ACADEMY, BHOWALI, NAINITAL

### Training Programmes held in the month of January-March 2015:-

S. No.	Name of Training Programmes/ Workshops	Duration
1-	Foundation Training Programme for Newly Recruited Civil Judges (J.D.) 2012 Batch (IIIrd phase of Institutional Training)	26 December, 2014 to 03 January, 2015
	Journey to Gujarat for Newly Recruited Civil Judges (J.D.) 2012 Batch	04 January, 2015 to 13 January, 2015
	Visit to Various Govt. Department	14 January, 2015 to 17 January, 2015
	Training at Uttarakhand Academy of Administration, Nainital	19 January, 2015 to 24 January, 2015
	Training at Lal Bahadur Shastri National Academy of Administration, Mussoorie	27 January, 2015 to 31 January, 2015
	Concluding Part of Training & Valediction of Newly Recruited Civil Judges (J.D.) 2012 Batch	02 February, 2015 to 07 February, 2015
2-	Joint Workshop on Protection of Children from Sexual Offences Act for Doctors of Govt. Hospitals of Uttarakhand and Police Officers of Uttarakhand (1 <sup>st</sup> Phase)	20 & 21 February, 2015 (Friday & Saturday)
3-	Workshop on "Protection of Women from Domestic Violence Act, 2005" For Protection Officers under the Act (Department of Integrated Child Development Scheme (I.C.D.S.), Govt. of Uttarakhand) (1 <sup>st</sup> phase)	09 & 10 March, 2014 (Monday & Tuesday)
4-	Workshop on "Protection of Women from Domestic Violence Act, 2005" For Protection Officers under the Act (Department of I.C.D.S., Govt. of Uttarakhand) (2 <sup>nd</sup> phase)	12 & 13 March, 2014 (Thursday & Friday)
5-	Workshop on "Protection of Women from Domestic Violence Act, 2005" For Protection Officers under the Act (Department of I.C.D.S., Govt. of Uttarakhand) (3 <sup>rd</sup> phase)	16 & 17 March, 2015 (Monday & Tuesday)
6-	Workshop on "Protection of Women from Domestic Violence Act, 2005" For Protection Officers under the Act (Department of I.C.D.S., Govt. of Uttarakhand) (4 <sup>th</sup> phase)	19 & 20 March, 2015 (Thursday & Friday)

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**JOINT WORKSHOP ON PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012  
FOR DOCTORS OF GOVT. HOSPITALS AND POLICE OFFICERS OF UTTARAKHAND  
Duration : 2 days (On 20 & 21 February, 2015)**



**WORKSHOP ON "PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005"  
FOR PROTECTION OFFICERS OF INTEGRATED CHILD DEVELOPMENT SCHEME (I.C.D.S.),  
GOVT. OF UTTARAKHAND ON 09 & 10 MARCH, 2015**



**WORKSHOP ON "PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005"  
FOR PROTECTION OFFICERS OF INTEGRATED CHILD DEVELOPMENT SCHEME (I.C.D.S.),  
GOVT. OF UTTARAKHAND ON 12 & 13 MARCH, 2015**



**WORKSHOP ON "PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005"  
FOR PROTECTION OFFICERS OF INTEGRATED CHILD DEVELOPMENT SCHEME (I.C.D.S.),  
GOVT. OF UTTARAKHAND ON 19 & 20 MARCH, 2015**





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