

HIGH COURT OF UTTARAKHAND, NAINITAL

NOTIFICATION

August 27, 2009

THE UTTARAKHAND CASE FLOW MANAGEMENT

(FOR HIGH COURT) RULES, 2009

**(Published in Uttarakhand Ordinary Gazette dated: 19
September,2009 *Bhag 1-ka*)**

No.155/UHC/Admin. B- In exercise of the powers conferred by article 225 of the Constitution of India and all other power enabling it in that behalf, the High Court of Uttarakhand hereby makes the following rules-

1. Title, application and commencement-

- (1) These rules may be called the Uttarakhand Case Flow Management (for High Court) rules, 2009.
- (2) These rules shall apply to all writs, appeals and all other civil, criminal and other proceedings before the High Court.
- (3) These rules shall come into force from the date of their publication in the Official Gazette.

2. Definitions:- In these rules, unless the context otherwise requires-

- (1) High Court means the High Court of Uttarakhand.
- (2) Government means the Government of the State of Uttarakhand.
- (3) Code means the code of Civil procedure 1908 (Act No. 5 of 1908).

3. Division of cases into different Tracks-

- (1) **Writ Petitions-** The High Court shall, at the stage of admission or issuing notice before admission categories the Writ Petitions other than the Writ of Habeas Corpus, into three categories.
 - (i) **Fast Track-** The petitions in the Fast Track shall invariably be disposed of within a period not exceeding six months.
 - (ii) **Normal Track-** The petitions in the Normal Track should not take longer than a year.
 - (iii) **Slow Track-** The petition in the Slow Track, like Public Interest Litigations subject to the pendency of other cases in the Court, should ordinarily be disposed of within a period of two years.

Note- Where an interim order of stay or injunction is granted in respect of liability to tax or demolition or eviction from public premises etc. shall be put on the fast track. Similarly, all matters involving tenders would also be put on the Fast Track. These matters cannot brook delays in disposal.

- (2) Registrar (Judicial) or other senior officer of the High Court, nominated for the purpose, shall at intervals of every month, monitor the stage of each case likely to come up for hearing before each Bench (Division Bench or Single Judge) during that month which have been allocated to the different tracks. The details shall be placed before the Chief Justice or Committee nominated for that purpose as well as the concerned Judge dealing with cases.
- (3) **The Judge or Judges** referred to in Clause (2) above may shift the case from one track to another, depending upon the complexity, (urgency) and other circumstances of the case.
- (4) **The data** will be fed into the computer in such a manner that the court or judge or judges, referred to in Clause (2) above will be able to ascertain the position and stage of every case in every track from the computer screen.
- (5) **Whenever** the roster changes, the judge concerned who is dealing with final matters shall keep himself informed about the stage of the cases in various track listed before him during every week, with a view to see that the cases are taken up early.
- (6) **Other matters-** The High Court shall also divide Civil Appeals and other matters in the High Court into different tracks on the lines indicated in sub-clauses (2) to (5) above and the said clauses shall apply, mutatis mutandis, to the civil appeals filed in the High Court. The High Court shall make a subject-wise division of the appeals/revision application for allocation into different tracks.

4. Writ of Habeas Corpus-

- (1) ***Writ of Habeas Corpus against Government-***
 - (i) Notices in respect of Writ of Habeas Corpus where the person is in custody under orders of a State Government or Central Government shall invariably be issued by the Court at the first listing and shall be made returnable within 48 hours.
 - (ii) The Person may file a brief return enclosing the relevant documents to justify the detention.
- (2) ***Writ of Habeas Corpus against private person-***
 - (i) Notices in respect of Writ of Habeas Corpus where the persons is in custody of private person/s shall invariably be issued by the Court at the first listing and shall be made returnable within 72 hours.
 - (ii) The Person may file a brief return enclosing the relevant documents to justify the detention.
- (3) Normally the matter shall be listed after notice on the fourth working day (if that day is holiday next day) after issuance of notice, and the Court shall consider whether a more detailed return to the Writ is necessary, and, if so required, shall give further time of ten days for response.

- (4) A Writ of Habeas Corpus shall invariably be disposed of within a period of one month. It shall have preference over and above fast-track cases.

5. Mode of Advance Service- The Court rules will provide for mode of service of notice on the standing counsel for Respondents wherever available, against whom, interim orders are sought. Such advance service shall generally relate to Governments or public sector undertakings who have Standing Counsel.

6. First Appeals to High Court-

- (1) First Appeal being appeals on questions of fact and law, Courts are generally inclined to admit the appeal and it is only in exceptional cases that the appeal is rejected under Order XLI Rule 11 at the admission stage.
 - (i) In view of the amended Code, a copy of the appeal is required to be filed in the Trial Court. But a party can file the appeal in the Appellate Court (High Court) immediately for obtaining interim orders.
 - (ii) In addition to the process for normal service as per the Code, advance notice should simultaneously be given by the counsel for the party who is proposing to file the appeal, to the counsel for the opposite party in the Trial Court itself so as to enable them to inform the parties to appear if they so choose even at the first hearing stage.
- (2) **Filing of Documents-** The Appellant shall, on the appeal being admitted, file all the essential papers within such period as may be fixed by the High Court for the purpose the High Court understanding the scope of the dispute and for the purpose of passing interlocutory orders.
- (3) **Printing or typing of Paper Book-** Printing and preparation of paper-books by the High Court should be done away with. After service of notice is effected, counsel for both sides should agree on the list of documents and evidence to be printed or typed and the same shall be made ready by the parties within the time to be fixed by the Court. Thereafter the paper book shall be got ready. It must be assured that the paper books are ready at least one month in advance before the appeal is taken up for arguments. (Cause lists must specify if paper books have been filed or not).
- (4) **Filing of written Submissions and time for oral arguments-**
 - (i) Both the appellants and the respondents shall be required to submit their written submissions with all the relevant pages as per the Court paper-book marked therein within 15 days of preparation of such paper-books, referred to in para 3 above.
 - (ii) Cause list may indicate if written submissions have been filed.
 - (iii) After the written submissions are filed, (with due service of copy to the other side) the matter should be listed before the Registrar for the parties to indicate the time that will be taken for arguments

in the appeal. Alternatively, such matters may be listed before a judge in chambers for deciding the time duration and thereafter to fix a date of hearing on a clear date when the requisite extent of time will be available.

- (iv) In the event that the matter is likely to take a day or more, the High Court may consider having a Caution List/Alternative List to meet eventualities where a case gets adjourned due to unavoidable reasons or does not go on before a court where, for one reason or another, the scheduled cases are not taken up for hearing.

(5) Court may explore possibility of settlement-

- (i) At the first hearing of a First Appeal, if it appears to the court that there exists elements of a settlement, the court shall hear the parties in person and if after hearing the parties, the court finds that there is a possibility of a settlement, the court may refer the same for arbitration, conciliation, judicial settlement through the Lok Adalat or mediation, as the case may be.
- (ii) If necessary, the process contemplated by Section 89 of Code may be resorted to by the Appellate Court so, however, that the hearing of the appeal is not unnecessarily delayed. If so restored, the Court should fix a date for a report on the ADR two months from the date of reference.

7. Appeals to Division Bench from judgment of Single Judge of High Court-

- (1) Should be invariably filed after advance notice to the opposite counsel (who has appeared before the Single Judge) so that both the sides will be represented at the very first hearing of the appeals. If both parties appear at the first hearing, there is no need to serve the opposite side by normal process and at least in some cases, the appeals against interlocutory orders can be disposed of even at the first hearing. If, for any reason, this is not practicable, such appeals against interim orders should be disposed of within a period of a month.
- (2) In cases referred to above, necessary documents should be kept by the counsel to enable the Court to dispose of the appeal against interlocutory matter at the first hearing itself.
- (3) In all Appeals against interim orders in the High Court, in writs and civil matters, the Court should endeavour to set down and observe a strict time limit in regard to oral arguments. In case of Original Side Appeals arising out of final orders in Writ Petition or arising out of civil suits filed in the High Court, a flexible time schedule may be followed.
- (4) Before Writ Appeals against final orders in Writ Petitions are heard, brief written submissions must be filed by both parties within such time as may be fixed by the Court.

8. Second Appeals-

- (1) Even at the stage of admission, the questions of law with a brief synopsis and written submission on each of the propositions should be filed so as to enable the Court to consider whether there is a substantial question of law.
- (2) Wherever the Court is inclined to entertain the appeal, apart from normal procedure for service as per rules, advance notice shall be given to the Counsel who had appeared in the first Appellate Court.
- (3) The notice should require the respondents to file their written submissions within a period of eight weeks from service of notice.
- (4) Efforts should be made to complete the hearing of the Second Appeals within a period of six months.

9. **Revision-** The practice direction in regard to First Appeals to the High Courts, should mutatis mutandis apply in respect of revision petitions.

10. Criminal Appeals-

- (1) Criminal Appeals should be channeled based on offence, sentence and whether the accused is on bail or in jail into following tracks-

Track I- Capital punishment cases, rape, sexual offences, dowry death cases.

Track II- Other cases where the accused is not granted bail and is in jail.

Track III- Cases, which affect a large number of persons such as cases of mass cheating, economic offences, illicit liquor tragedy, food adulteration cases, offences of sensitive nature.

Track IV- Offences which are tried by special courts such as NDPS, Prevention of Corruption Act, etc.

Track V- All other offences.

- (2) The endeavour should be to complete-
 - Track I cases** within a period of six months,
 - Track II cases** within one year,
 - Track III** within one and half year,
 - Track IV and Track V** within two years,
- (3) Wherever an appeal is filed by person in jail, and also when appeals are filed by State, the complete paper-books including the evidence, should be filed by the State within such period as may be fixed by Court.
- (4) In appeals against acquittals, steps for appointment of amicus curie or State Legal Aid counsel in respect of the accused who do not have a lawyer of their own should be undertaken by the Registry/(State Legal Service Authority) immediately after completion of four weeks of service of notice. It shall be

presumed that in such an event the accused is not in a position to appoint counsel, and within two week thereafter counsel shall be appointed and shall be furnished all the papers.

11. Note- Wherever there is any inconsistency between these rules and the provisions of either the Code of Civil Procedure, 1908 or the Code of Criminal Procedure, 1973 or the Rules of the Court 1952, or any other statute, the provisions of such Codes, rules and statute shall prevail.