

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

**THE CHIEF JUSTICE SHRI VIPIN SANGHI
AND
JUSTICE SHRI RAMESH CHANDRA KHULBE**

Writ Petition(PIL) No. 151 of 2021

Alok KumarPetitioner

Vs.

Union of India and othersRespondents

Presence: -

Mr. Abhijay Negi and Ms. Snigdha Tiwari, learned counsel for the petitioner.

Mr. Azmeen Sheikh, learned Standing Counsel for respondent no.1.

Mr. Pradeep Joshi, learned Additional Chief Standing Counsel for the State/respondent nos.2 to 5.

Mr. Vikas Bahuguna, learned counsel for respondent no.6.

ORDER (Oral: Shri Vipin Sanghi, C.J.)

The petitioner has preferred the present writ petition to seek the following reliefs: -

- "1. Issue a writ order of direction in the nature of Mandamus, commanding the respondents to frame guidelines to deal with cases of online extortion, online abuse that particularly impact the younger generation.
2. Issue a writ order of direction in the nature of Mandamus, commanding all the respondents to coordinate amongst themselves to operate a 24*7 effective helpline number to deal with cases of online abuse.
3. Issue a writ order of direction in the nature of Mandamus, commanding the respondents to produce an action taken report before this Hon'ble Court on the number of complaints that they had received and how many of these complaints they have actually been able to redress.
4. Issue a writ order of direction in the nature of Mandamus, commanding the respondents to give wide publicity to such helpline number across the length and breadth of the State of Uttarakhand to ensure that remedial measures are made aware even in the rural areas of the State."

2. The grievance of the petitioner is that someone has uploaded a morphed video, containing obscenity involving the petitioner, and the same has also been circulated. The petitioner complained about the same to respondent no.6-Facebook. The "automatic reply" received from respondent no.6-Facebook, on 20.07.2021, reads as follows: -

"Thank you for your email. Please note that this email is used only for the purpose of answering questions about the process to submit user grievances to Facebook. Facebook will not respond to grievances submitted to this email. If you have a grievance that you would like to submit to Facebook, you may do so here."

3. Mr. Negi submits that the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 have been framed by the Central Government in exercise of powers conferred by sub-section (1), clauses (z) and (zg) of sub-section (2) of section 87 of the Information Technology Act, 2000 superseding the Information Technology (Intermediaries Guidelines) Rules, 2011, which obliged the publisher – which would include respondent no.6-Facebook to act in terms of the grievance redressal mechanism and self regulating mechanism contained in the aforesaid Rules. However, respondent no.6 has not acted in terms of the said grievance redressal mechanism and the complaint of the petitioner has fallen on deaf ears. Even though, respondent no.6-Facebook was served in the year 2021 and the *Vakalatnama* on behalf of respondent no.6 was filed as early as on 27.10.2021, no counter affidavit has

been filed till date.

4. Further time is sought by Mr. Vikas Bahuguna, learned counsel for respondent no.6-Facebook to file the counter affidavit.

5. *Prima-facie*, it appears that respondent no.6 is not complying with the aforesaid Rules, which are statutory in character and bind respondent no.6. While granting four weeks' time to respondent no.6 to file its counter-affidavit, which should also disclose the steps taken by the said respondent to comply with the aforesaid Rules, we subject to respondent no.6 to costs of Rs.50,000/- out of which, Rs.25,000/- shall be paid to the petitioner and the remaining amount shall be deposited with the Uttarakhand High Court Bar Association. The costs be deposited within three weeks. It is made clear that no further time shall be granted for this purpose.

6. List this case on 16.02.2023.

VIPIN SANGHI, C.J.

RAMESH CHANDRA KHULBE, J.

Dated: 7th December, 2022

BS/SK