



HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE THE CHIEF JUSTICE SHRI MANOJ KUMAR GUPTA
AND

HON'BLE SHRI JUSTICE SUBHASH UPADHYAY

SPECIAL APPEAL No. 356 OF 2025

1: Indramani

--Appellant

Versus

1: State Of Uttarakhand
2: Director Of Rehabilitation
3: Executive Engineer
4: Officer-In-Charge
5: Kushal Singh
6: Dheeraj Singh Rawat
7: THDC

...Respondents

Counsel for the appellant. : Mr. Pradeep Kumar Chauhan and Mr. B.S. Kathayat, learned counsel.

Counsel for respondent nos. 1 to 4. : Mr. J.C. Pande, learned Standing Counsel for the State of Uttarakhand.

Counsel for respondent no. 7. : Mr. Sandeep Kothari, learned counsel.

Counsel for petitioner in WPMS/1854/2022. : Mr. Rajendra Dobhal, learned Senior Counsel assisted by Mr. Suryakant Maithani, learned counsel.

JUDGMENT RESERVED : 04TH AUGUST, 2026

JUDGMENT DELIVERED : 11TH AUGUST, 2026

JUDGMENT : (per Hon'ble The Chief Justice Shri Manoj Kumar Gupta)

DELAY CONDONATION APPLICATION (IA No. 01/2025)

1. The appeal is reported to be beyond time by 185 days. Counsel for the respondents have no objection to the delay being condoned. Accordingly, the delay is condoned. The application is allowed. Office is directed to allot a regular number to the instant appeal.

**SPECIAL APPEAL NO. 356 / 2025**

2. The present intra-Court appeal is directed against the common judgment and order dated 04.04.2025 passed by the learned Single Judge in WPMS/441/2022, '*Indramani v. State of Uttarakhand and others*', & WPMS/1854/2022, '*Hikmat Singh Panwar v. State of Uttarakhand and others*', and order dated 30.10.2025 passed in review application filed by the appellant.

3. The controversy in the present appeal pertains to the allotment of agricultural Plot No. E31, admeasuring 1/2 acre, situated at Rehabilitation Site-Nirmal Block A, Pashulok, Rishikesh, under the Rehabilitation Scheme for the oustees of the Tehri Dam Project.

4. The appellant is an affected person/ oustee of Village Biryani, Patti Gushai, District Tehri Garhwal under the Tehri Dam Project. Pursuant to the Rehabilitation Scheme, agricultural Plot No. 4, admeasuring 1800 sq. mtrs. and residential Plot No. 4, admeasuring 200 sq. mtrs. at Patel Nagar, Dehrakhas, Dehradun were allotted to him vide allotment letter dated 08.02.2013. Subsequently, by Government Order dated 18.11.2013, the allotment was cancelled on the ground that prior concurrence of the State



Government had not been obtained, although the land belonged to the State Government.

5. Petitioner in WPMS/1854/2022, Hikmat Singh Panwar, is also an oustee of the Tehri Dam Project. He was allotted residential Plot No. 16, admeasuring 200 sq. mtrs., and agricultural Plot No. 18, admeasuring 1/2 acre, on 08.02.2013. Subsequently, the allotment of his agricultural Plot No. 18, admeasuring 1/2 acre, was also cancelled by Government Order dated 18.11.2013. Thus, the factual position obtaining after the cancellation of the original allotments was that, although both the appellant and Hikmat Singh Panwar, being oustees, were entitled to rehabilitation, the original allotments of the appellant stood cancelled in respect of both agricultural and residential plots, and that of Hikmat Singh Panwar, only in respect of the agricultural plot.

6. In the year 2021, the appellant filed WPMS/1492/2021 before this Court, alleging that one Chattar Singh, also an oustee of Tehri Dam Project, had been granted a dual allotment of Plot No. E31, Rehabilitation Site-Nirmal Block A, Pashulok, Rishikesh and, therefore, it ought to be cancelled and the plot be allotted to him. The writ petition was disposed of by this Court by order dated



02.08.2021, directing the Rehabilitation Director to consider and decide the representation of the appellant dated 01.02.2021, after affording an opportunity of hearing to the heirs of late Chattar Singh, who had died by then.

7. It appears that, even before the representation filed by the appellant could be taken up for consideration by the Rehabilitation Director, his name was included in the lottery conducted on 06.08.2021 for allotment of plots to the oustees of the Tehri Dam Project. In the said exercise, agricultural Plot No. 300, admeasuring 2 acres, and residential Plot No. 89, admeasuring 200 sq. mtrs., situated at Rehabilitation Site, Pathri Bagh-3 (West) Haridwar, were allotted in his favour.

8. On 23.02.2022, pursuant to the order dated 02.08.2021 in WPMS/1492/2021, the Rehabilitation Director decided the representation of the appellant, after issuing notice to the heirs of Chattar Singh. The Rehabilitation Director found that Chattar Singh had obtained a dual allotment of Plot No. E31, admeasuring 1/2 acre, Rehabilitation Site-Nirmal Block A, Pashulok, Rishikesh, by misleading the Department and, accordingly, cancelled the said allotment. However, taking note of the fact that the



appellant had already been allotted agricultural and residential plots in the lottery conducted on 06.08.2021, the Rehabilitation Director declined to accept the representation of the appellant in respect of allotment of Plot No. E31. Aggrieved thereby, the appellant filed the writ petition, which has been decided by learned Single Judge by the impugned judgment and order.

9. Hikmat Singh Panwar had also approached this Court by filing WPMS/571/2022, though he did not challenge therein the order of cancellation of his allotment. The said writ petition was dismissed on 29.03.2022. Feeling aggrieved thereby, Hikmat Singh Panwar filed Special Appeal No. 66/2022, which was allowed on 19.04.2022, with a direction to the respondents to reconsider his claim for allotment of an agricultural plot, his earlier allotment having been cancelled by order dated 18.11.2013. In compliance of the order passed in the special appeal, the respondents considered the representation of Hikmat Singh Panwar and observed that his claim would be subject to the decision in pending WPMS/441/2022, filed by the appellant herein. Hikmat Singh Panwar, feeling aggrieved by order dated 24.04.2022, filed WPMS/1854/2022, which was also decided



by the learned Single Judge, along with the writ petition filed by the appellant.

10. Thus, by the time the matter once again came before this Court at the instance of the appellant and Hikmat Singh Panwar through their separate writ petitions, the factual position was as follows :

(a) The appellant had been allotted agricultural Plot No. 300, admeasuring 2 acres and residential Plot No. 89, admeasuring 200 sq. mtrs., situated at Rehabilitation Site, Pathri Bagh-3 (West) Haridwar.

(ii) Hikmat Singh Panwar continued to have the original allotment of residential Plot No. 16, admeasuring 200 sq. mtrs., but had not been allotted any agricultural plot in lieu of cancellation of agricultural Plot No. 18, vide order dated 18.11.2013.

11. Although, both writ petitions were decided by a common order, the learned Single Judge first considered the claim of the appellant in paragraph nos. 5 to 13. In paragraph no. 11, the learned Single Judge noted that the principal grievance of the appellant was that agricultural Plot



No. 300, admeasuring 2 acre allotted to him was not suitable for agricultural purposes. The said grievance was based on a report of Deputy Revenue Officer dated 15.07.2023, according to which, the agricultural plot allotted to the appellant was in three parts and not fit for cultivation. In the present appeal, the reports of the authorities dated 12.09.2025 and 08.10.2025 on the same aspect have also been filed.

12. In the same paragraph, the learned Single Judge has also noticed the appellant's claim for allotment of Plot No. E31 in his favour in exchange of Plot No. 330. The claim for exchange was based on an Office Memorandum dated 10.07.2003, which is as follows :

- “1. पात्रता सूची अधोहस्ताक्षरी के अनुमोदन के उपरान्त अधिशासी अभियन्ता निर्माण खण्ड लो.नि.वि., नई टिहरी द्वारा निर्गत की जायेगी।
2. आवंटन से पूर्व पात्रता के कमाकों को पुर्ननिर्धारण संबंधित ग्राम प्रधान की सहमति से किया जा सकता है। परन्तु आवंटन निर्धारित वरियता कम में ही किया जायेगा।
3. उप राजस्व अधिकारी, ऋषिकेश द्वारा संबंधित अधिशासी अभियन्ता से सहमति लेकर आवंटन संबंधी आदेश जारी किये जायेंगे।”

13. While considering the appellant's claim based upon the Office Memorandum dated 10.07.2003, the learned Single Judge has observed that an exchange could be permitted only with the consent of Executive Engineer, which was lacking in the instant case.



14. Independent of the reasoning given by the learned Single Judge, we find that, although paragraph no. 2 permits interchange of allotments with the consent of the Gram Pradhan, it does not confer any indefeasible right in favour of any allottee to claim any particular plot. Therefore, we find no illegality in the view taken by the learned Single Judge, declining to accept the claim of the appellant for exchange of Plot No. 330 allotted in his favour with Plot No. E31.

15. The other contention of the appellant that Plot No. 330 was not suitable for agricultural purposes, it appears from the order of the learned Single Judge that, with a view to resolving the said issue, the learned Single Judge heard Rehabilitation Director through video conferencing. The Rehabilitation Director stated before the learned Single Judge that the agricultural land allotted to the appellant would be made suitable for agricultural purposes in all respects, with the assistance of the officials of the THDC, and further undertook to complete the exercise within the stipulated time. Taking notice of the statement of the Rehabilitation Director, the learned Single Judge directed that the agricultural Plot No. 330 allotted to the appellant be



made suitable in all respects within six weeks and that, thereafter, possession thereof be handed over to the appellant.

16. Having issued the aforesaid direction in favour of the appellant, the learned Single Judge proceeded to consider the case of Hikmat Singh Panwar from paragraph no. 14 onwards. Upon noticing that he is also an oustee, and had not been allotted any agricultural plot in lieu of the earlier allotment, which stood cancelled, the learned Single Judge directed the Department to allot Plot No. E31 in his favour. The relevant observations and directions, in respect of the appellant, as contained in paragraph no. 13, and in respect of Hikmat Singh Panwar, as contained in paragraph nos. 24 to 26, are extracted below :

“13. The Director Rehabilitation Mayur Dixit joined the proceeding through V.C. and apprise to this court that in fact the land allotted to the petitioner Indramani i.e. Plot No. 330 having an area of 2 acre is suitable for agriculture purposes, but taking into consideration the report of the Deputy Revenue Officer dated 15.07.2023 the land will be made suitable for agriculture purposes from all corner with the assistance of the officials of the THDC and this entire exercise will be completed within six weeks. The suggestion as given by the Director Rehabilitation for the purposes of resolving this dispute is really appreciable. In such an eventuality, the instant writ petition filed by Indramani is disposed of finally with the direction to the Director Rehabilitation to make Plot No. 330 measuring 2 acre for agriculture purpose by taking assistance of the District Administration, Revenue Officials as well as Officials of the THDC. After completing the entire exercise within six weeks the Director, Rehabilitation will give the peaceful possession of Plot No. 330 to the petitioner after



measuring the land to ascertain that the area would not be less than two acre.

24. Now, since the Director Rehabilitation fairly suggest that the Plot No. E 31, which was earlier allotted to Chatar Singh is vacant and can be allotted to the petitioner Mr. Hikmat Singh Panwar.

25. Learned senior counsel Mr. Rajendra Dobhal, who appears for "Hikmat Singh Panwar" fairly accepts the suggestion of the Director and submits that the petitioner is ready to accept Plot No. E 31.

26. On this, the Director Rehabilitation submits that the possession of Plot No. E 31 shall be handed over to petitioner Hikmat Singh Panwar within 15 days from today."

17. Thus, having addressed and resolved the claim of both the parties, the learned Single Judge, in the concluding paragraph, has observed as follows :

"27. Since, now the issue as raised by both the petitioners, who are the displaced person has been resolved in view of the observation and directions as above. Accordingly, the present writ petition is disposed of finally."

18. Thereafter, the appellant filed a review application before the learned Single Judge alleging that Hikmat Singh Panwar had already transferred agricultural Plot No. 18 originally allotted to him, by a registered sale deed dated 14.02.2013 in favour of Naveen Uniyal, s/o Paripurnanand Uniyal and Sawan Singh, s/o Kalam Singh, and the said fact was actively concealed by him, and that had the said fact been disclosed, no relief would have been granted to him.

19. The review application was opposed by Hikmat Singh Panwar, contending that, since the allotment of



agricultural Plot No. 18 in his favour had been cancelled on 18.11.2013, the land stood re-vested in THDC and its possession had also remained with THDC. Consequently, according to him, the sale deed executed by him had become null and void. In the aforesaid circumstances, the parties themselves treated the sale as null and void and the entire sale consideration was returned to the vendee, Naveen Uniyal. It was also contended on behalf of Hikmat Singh Panwar that the appellant, Indramani, who had originally been allotted Plot No. 4, admeasuring 200 sq. mtrs., at Patel Nagar, Dehrakhas, Dehradun, had similarly sold his plot also, though allotment of the said plot was subsequently cancelled.

20. The learned Single Judge, therefore, directed THDC to clarify the factual position. In compliance of the said direction, a compliance affidavit was filed by the Rehabilitation Director, wherein he also stated that Indramani had sold residential Plot No. 4, admeasuring 200 sq. mtrs., to one Sarita Pandey vide sale deed dated 06.03.2013. It further appears from the order-sheet that, on basis of instructions received from THDC, learned counsel appearing on its behalf informed the Court that the possession of agricultural Plot No. 18, initially allotted to



Hikmat Singh Panwar, pursuant to the cancellation of the said allotment, had remained with THDC, and thus the sale deed between Hikmat Singh Panwar and Naveen Uniyal had become ineffective.

21. The learned Single Judge, taking note of the stand of THDC that sale deed executed by Hikmat Singh Panwar in favour of Naveen Uniyal was a nullity in the eyes of law and the possession of the land had remained with THDC, rejected the review application.

22. Before this Court, learned counsel for the appellant has advanced three submissions, namely :

(a) Hikmat Singh Panwar had not approached the writ court with clean hands, as he had concealed the fact of execution of sale deed of Plot No. 18 originally allotted to him, in favour to Naveen Uniyal. It is, therefore, contended that the learned Single Judge, on such fact being brought to its notice by way of review application, erred in rejecting the same. Learned counsel for the appellant has also drawn the attention of the Court towards a suit instituted by Hikmat Singh Panwar (Original Suit No. 76/2025), wherein it is alleged,



in paragraph no. 5, that he had agreed to transfer the newly allotted plot to the same vendee, i.e. Naveen Uniyal, although the relief sought in the suit is for cancellation of the sale deed dated 14.02.2013.

(b) Agricultural Plot No. 330, allotted in favour of the appellant, is not fit for cultivation. Despite various reports of the authorities to the said effect, the learned Single Judge erred in declining the appellant's request for exchange of Plot No. E31.

(c) The direction issued by learned Single Judge, for allotment of Plot No. E31 in favour of Hikmat Singh Panwar, without subjecting the said plot to the lottery system, is not valid.

23. On the other hand, the learned counsel for Hikmat Singh Panwar submitted that, since the original allotment of agricultural Plot No. 18 in favour of Hikmat Singh Panwar was cancelled on 18.11.2013 and possession was taken back by the THDC and the title in the land re-vested with the State Government, therefore, the sale deed executed by Hikmat Singh Panwar, in respect of the said plot, was rendered null and void. The sale consideration for the said



land paid by the vendee was duly returned to him. An affidavit to the said effect has already been filed by Hikmat Singh Panwar, as well as by the vendee, namely Naveen Uniyal in the present proceedings. It is, therefore, submitted that non-disclosure of the execution of the said sale deed was of no consequence and could not, in any manner, have affected the ultimate outcome of the writ petition. As regards the suit filed in the year 2025, it is submitted that the same was filed for cancellation of the sale deed so that the document does not create any confusion. It is further submitted that there is no prohibition against the sale of plot allotted under the rehabilitation scheme, and therefore even if Hikmat Singh Panwar intends to transfer the recently allotted plot in favour of any person, the same has no bearing on the merits of the present case. It is further submitted that agricultural Plot No. 330 had already been allotted to the appellant and his grievance that it was not fit for cultivation has already been addressed by the learned Single Judge. Lastly, it is submitted that since Hikmat Singh Panwar had not been allotted any agricultural plot, though entitled to the same, therefore, the learned Single Judge rightly directed for allotment of Plot No. E31 in favour of Hikmat Singh Panwar.



24. We have considered the rival submissions and perused the material on record.

25. The main emphasis of the learned counsel for the appellant is on the fact that Hikmat Singh Panwar had not disclosed about the execution of sale deed dated 14.02.2013, in respect of agricultural Plot No. 18, in favour of Naveen Uniyal. However, the said contention does not have any force. It is undisputed that the allotment of agricultural Plot No. 18 in favour of Hikmat Singh Panwar was subsequently cancelled on 18.11.2013. The learned Single Judge has taken note of the stand of Hikmat Singh Panwar that, upon cancellation of allotment, the possession and title of the said plot remained with the THDC and the sale deed executed by Hikmat Singh Panwar was rendered null and void. The THDC had clarified its stand before the learned Single Judge that possession of the said plot had remained with it. Consequently, the execution of the sale deed was not a material fact having any bearing upon the entitlement of Hikmat Singh Panwar to rehabilitation. Its non-disclosure, therefore, does not affect the ultimate outcome of the case.



26. The second contention of the appellant was with regard to the unsuitability of Plot No. 330 allotted in favour of the appellant. In the present proceedings, having regard to the said grievance, this Court by order dated 10.03.2026, required the learned State Counsel to clarify the said aspect. On basis of the said direction, learned State Counsel, after obtaining instructions from Rehabilitation Director, Tehri Garhwal, on the subsequent date clarified that the plot allotted to the appellant was not, in fact, in three portions as alleged, but adjacent to each other, except for the fact that a canal and a metal road passes through the said land. On the same date, this Court also noted the contention of the appellant that one portion of the plot was at a lower elevation. Having regard to the said grievance the Rehabilitation Director was directed to take positive steps to resolve the issue. The order dated 12.03.2026 is as follows:

"1. Mr. Pradeep Kumar, learned counsel for the petitioner.

2. Mr. J. C .Pande, learned Standing Counsel for the State/respondent nos.1 to 4.

3. Mr. Rajendra Dobhal, learned Senior Counsel, assisted by Mr. Suryakant Maithani and Mr. Shubhang Dobhal, learned counsel for the respondent nos. 5 & 6.

4. Ms. Ananya Jain, learned counsel holding brief of Mr. Sandeep Kothari, learned counsel for respondent no.7/T.H.D.C.

5. Learned State counsel has placed on record the instructions received from Director, Rehabilitation, Tehri Garhwal, wherein the stand taken is that the three portions of land allotted to the appellant are in fact, adjacent to



each other except a canal and a metal road passing between the land.

6. Learned counsel of the appellant has invited our attention towards reports dated 08.10.2025 and 12.09.2025 and relying on the same, it is contended that after the alleged levelling of the plot, one portion is still 3.5 feet below the level of the road and at the time of inspection by officials of the T.H.D.C., water logging of 1.5 feet was found at the site. He submits that the report categorically states that the water from adjoining plots gets accumulated over said portion of the plot and consequently it is not suitable for agricultural operations.

7. The Director, Rehabilitation appeared through Video Conferencing during course of hearing of the writ petition by learned Single Judge. It seems that at the time of hearing of the writ petition, he assured the Court that the plot allotted to the appellant would be made suitable in all respects, but we observe that the water logging still persists. The object of allotting land to the oustees is to rehabilitate them and, therefore, it is bounden duty of the State to ensure that the land which is allotted is suitable for the purpose for which allotment has been made. This indeed was also the undertaking extended by the Director, Rehabilitation before the learned Single Judge.

8. We direct the Director, Rehabilitation to ensure that the issue is resolved by taking positive steps in this regard within two weeks and apprise the Court of the steps taken by him in this behalf.

9. List on 02.04.2026.

10. Learned State counsel shall communicate the instant order to the Director, Rehabilitation for necessary compliance."

27. Pursuant to the aforesaid direction, the Rehabilitation Director filed a compliance affidavit, and in which he stated that the agricultural plot allotted to the appellant had been made cultivable by levelling and applying fertilizer, and in doing so, the department had incurred an expense of Rs. 20 Lakhs. Copy of the Measurement Book and Soil Test Report of the plot have been filed by him, along with his affidavit, in support of the said stand.



Further, in paragraph no. 6 of the affidavit, the Rehabilitation Director has also given clarification in respect of the appellant's contention that agricultural Plot No. 330 is not situated at the same elevation, which is as follows :

*"6. That on 17.03.2026, the departmental officials again conducted a field inspection of Agricultural Plot No. 330 in compliance of the Order dated 12.03.2026 of the Hon'ble High Court. In the Report, it is mentioned that presently no water-logging has been observed on the plot. All Agricultural Plots in the area, including Agricultural Plot No. 330, are 3-3.5 feet below the Road and are situated at same elevation, wherein wheat is being cultivated, except for the plot in question. In this connection, photographs of the Plot in question obtained from Google Maps Satellite are being annexed as **Annexure No.-2** to this affidavit.*

The departmental report also states that during the rainy season, water from the nearby forest seeps into Agricultural Plot No. 330 and surrounding plots. However, wheat cultivation is presently taking place on all other plots adjacent to Agricultural Plot No. 330. Furthermore, the elevation of Agricultural Plot No. 330 cannot be further increased, as doing so would lower the other plots and cause them to become waterlogged. True/ correct typed version/ copy of the Report dated 17.03.2026 along with Google

*Map satellite image of the site in question is being annexed as **Annexure No.-3** to this affidavit."*

28. It has also been stated that, even after the aforesaid exercise taken by the THDC, if the appellant is still not satisfied with the allotment of Plot No. 330 in his favour, the following options are available with him :-

"(i) The name of the petitioner could be included in the upcoming lottery for the allotment of Agricultural Plot. However, the department presently has only 10 Agricultural Plots available for allotment at various Rehabilitation Sites, for which the land at Pratitnagar is only 1.25 bighas (1024 square meters). The number of eligible displaced persons to be allocated agricultural plot is 16. Due to the limited availability of plots, it is not possible to allot agricultural land to all eligible displaced persons.



(ii) Due to the unavailability of land, the existing Collateral Damage Policy provides for a grant of Rs. 74.40 lakh in lieu of land. Eligible displaced persons who are unable to obtain agricultural land through the lottery will be considered for a grant of Rs. 74.40 lakh as under this Policy.”

29. After going through the compliance affidavit filed by the THDC, we are satisfied that the grievance of the appellant that Plot No. 330 is not cultivable no more survives. If still the appellant is not satisfied with the allotment of Plot No. 330 in his favour, the options given by THDC, as extracted hereinabove, are available to him, which he is free to avail.

30. As regards the third contention that the writ court exceeded its power in directing allotment of Plot No. E31 in favour of Hikmat Singh Panwar, without resorting to the process of lottery, this Court once again reiterates that the direction was issued in view of the peculiar facts of the case, and in an attempt to satisfy both the parties, and thereby give a quietus to the dispute.

31. Further, we are informed that the order of the learned Single Judge, directing allotment of Plot No. E31 in favour of Hikmat Singh Panwar, has already been complied with by the THDC by issuing allotment order dated 15.04.2025, and possession of the said plot was handed



over to Hikmat Singh Panwar on 15.04.2025. In view of the said fact also, we find no good ground to interfere with the order of the learned Single Judge.

32. Accordingly, the appeal is dismissed.

33. All pending applications also stand disposed of accordingly.

MANOJ KUMAR GUPTA, C.J.

SUBHASH UPADHYAY, J.

Dt: 11th August, 2026
Rahul