

**IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL**

ON THE 6TH DAY OF JANUARY, 2021

BEFORE:

HON'BLE SHRI JUSTICE MANOJ KUMAR TIWARI

Writ Petition (M/S) No. 3318 of 2016

BETWEEN:

Manju Agarwal, W/o Mahendra Kumar Agarwal, R/o
Janki Nagar, Kashirampur Najibabad Road,
Kotdwar, Pauri Garhwal.

....Petitioner

(By Shri Shobhit Saharia, Advocate)

AND:

1. State of Uttarakhand through Secretary, Urban Development, Government of Uttarakhand, Dehradun.
2. Uttarakhand Information Commission through its Registrar, RTI Bhawan, Mussurie Bye-Pass, Ring Road, Ladpur, Dehradun.
3. Sub Divisional Magistrate (SDM), Kotdwar, District Pauri Garhwal, Uttarakhand.
4. Nagar Palika Parishad, Kotdwar through its Executive Officer, Kotdwar, District Pauri Garhwal, Uttarakhand.

.....Respondents

(By Shri V.D. Bisen, Brief Holder for the State of Uttarakhand & Shri Sayed Nadim, Advocate for respondent no. 4)

ORDER

By means of this writ petition, petitioner has challenged the order dated 08.08.2016 passed by State Information Commission and the consequential orders dated 20.08.2016 & 29.11.2016 passed by Executive Officer, Nagar Palika Parishad Kotdwar.

2. Vide order dated 08.08.2016, State Information Commission had expressed displeasure regarding inaction on the part of Sub Divisional Magistrate, Kotdwar and had directed the Public Information Officer/ Executive Officer, Nagar Palika Parishad, Kotdwar to take necessary action with the help of local administration to remove the encroachment alleged to have been made by the petitioner within 15 days. Pursuant to the said order, Executive Officer, Nagar Palika Parishad has passed the order dated 29.11.2016, whereby petitioner was called upon to remove his alleged illegal construction within a week failing which same shall be demolished by Nagar Palika Parishad.

3. It is the contention of learned counsel for the petitioner that direction issued by State Information

Commission for removing the encroachment is beyond scope of his powers under Right to Information Act.

4. This Court finds substance in the contention raised on behalf of the petitioner. Under the Right to Information Act, there is no such power available to State Information Commission.

5. In such view of the matter, writ petition is allowed. Impugned order dated 08.08.2016 passed by State Information Commission and the consequential orders dated 20.08.2016 & 29.11.2016 passed by Executive Officer, Nagar Palika Parishad Kotdwar are quashed.

(MANOJ KUMAR TIWARI, J.)