

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

WP(C) No. 2637/2023

Balbir Singh

.....Appellant(s)

Through: Mr. Parvesh Singh Salaria, Advocate

Vs

UT of J&K and Anr.

..... Respondent(s)

Through: Mr. Rajnesh Raina, Advocate with
Mr. Prabhat Sangotra, Advocate
Mr. Om Goswami, Advocate

Coram: HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE

ORDER
06.05.2025

1. Impugned in the instant writ petition filed under the provisions of Article 226 of the Constitution of India is the order bearing No. JM/S/797-801 dated 14.09.2023 issued by the respondent No. 1, whereby the building premises of the petitioner came to be sealed.
2. The order impugned has been assailed on the grounds *inter alia* that the petitioner and his brother purchased the building premises in the year 2008 through registered sale deeds, whereupon they applied for the building permission to the Corporation of the respondents and raised the construction way back in the year 2013 as per the building permission. However, due to paucity of funds, they could not lay concrete slab on first floor at that time and as such covered the roof of the first floor with asbestos sheets. That they have now replaced the asbestos sheets with the concrete slab without changing the dimensions of the structure. That the

respondents firstly issued a show cause notice dated 14.09.2023 under Section 7(1) J&K Control of Building Corporation Act, 1988, thereby calling upon the petitioner to show cause as to why the violation carried out by him be not sealed or demolished. That besides the said show cause notice the impugned sealing order came to be issued on the same day which is bad under law. That the respondents without allowing the petitioner to show cause in response to the earlier notice dated 14.09.2023, issued the impugned sealing order which is in utter violation of the provisions of law.

3. At this stage, it is submitted by the learned counsel that the petitioner had simultaneously impugned the demolition order dated 05.10.2023 before the learned J&K Special Tribunal, Jammu which came to be disposed of with the keeping of the impugned order therein dated 05.10.2023 in abeyance, with the liberty to the petitioner/appellant to submit the revised building plan for the consideration of the respondents within statutory period of 60 days with the stipulation that in case no such revised building plan is submitted to them, the later are free to proceed ahead and take the proceedings dated 05.10.2023 to the logical conclusion.
4. It is submitted by the learned counsel for the petitioner that he has already filed the revised plans by depositing the requisite fee of Rs.700/- and has also obtained the online receipt which was perused and is taken on record.
5. I have heard the learned counsel for the parties and considered their submissions.

6. Perused the instant petition and the copies of the documents enclosed with the same especially the impugned sealing order dated 14.09.2023.
7. Having regard to the merits of the case and the disposal of the Revision Petition against the demolition notice, by the learned J&K Special Tribunal, giving liberty to the petitioner to apply for the revised permission, the matter is disposed of by setting aside the impugned sealing order dated 14.09.2023 as being violative of principles of natural justice, with the further direction to the respondents to address under law the application of the petitioner for revised permission in an expeditious manner and preferably within two weeks.
8. In case, the revised building permission is issued by the respondents, the petitioner shall make any further construction/renovation strictly, according to the same. Needless to say that the respondents shall be at liberty to proceed under law if required.

9. ***Disposed of.***



(Mohd. Yousuf Wani)
Judge

Jammu
06.05.2025
Riya