

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

Uploaded on 17.10.2025

Case:- WP(C) No. 2841/2025

Sandeep Singh

.....Petitioner (s)

Through: Mr. Abhishek Gupta, Adv.

vs

Jammu Development Authority and others

..... Respondent(s)

Through: Mr. Atul Verma, Adv vice
Mr. Adarsh Sharma, Adv.

Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER

14.10.2025

01. The record reveals that vide order dated 13.10.2025, Mr. Atul Verma, learned counsel appearing vice Mr. Adarsh Sharma, Advocate on behalf of the respondent-Jammu Development Authority has been directed to produce the record with a view to satisfy this Court whether, prior to the issuance of the sealing order, the notices under sections 7(1), 12(1), 12(2), 12(3) and 7(3) of the Jammu and Kashmir Control of Building Operations Act, 1988 have been served upon the petitioner or not and whether the procedure as envisaged under law, has been followed before passing the order of sealing of the premises of the petitioner.

02. Today when the instant petition is taken up, Mr. Atul Verma, learned counsel for the respondent authority has produced the original record, a perusal whereof reveals that all the notices under sections 7(1), 12(1), 12(2), 12(3) and 7(3) of the Jammu and Kashmir Control of Building Operations Act, 1988 (supra) have been issued to the petitioner and the same stand served. It is not so, even the record reveals that the petitioner has replied to the show cause notice issued in terms of section 7(1) of the Jammu and Kashmir Control of Building

Operations Act, 1988 on 19.07.2025. Thus, the grounds pleaded by the petitioner in the instant petition that the aforesaid notices have not been served upon him, is factually incorrect and contrary to record. Thus, an inference can be drawn that the petitioner has not come to this Court with clean hands and suppressed the material facts with a view to mislead this Court to get an interim order.

03. Even from the perusal of the impugned sealing order dated 30.09.2025, it is apparently clear that despite issuance of various notices under the Act (supra) and several visits by the concerned officer of the Authority on spot, asking the violator petitioner herein to stop the construction works till the Building Permission is granted by the competent authority, but the petitioner continued to raise the construction which is commercial in nature in absence of the valid Building Permission from the respondent-Authority.

04. The record further reveals that the spot falls within the jurisdiction limits of Jammu Development Authority as per Jammu Master Plan 2032 and the Jammu Development Authority being the competent authority to implement Master Plan, is under a statutory duty to ensure that the construction which falls within its jurisdiction, is not carried out in violation of the Building Bye Laws.

05. The petitioner in the instant case has been given ample opportunities of being heard following principles of natural justice and the procedure under the J&K Control of Building Operations(COBO) Act, 1988 and has also been provided sufficient time to stop his construction work, which he is continuing without seeking a proper building permission. The respondents, while passing the impugned order of sealing, have relied upon the Circular No.

HUD/JMC/31/2020 dated 08.05.2020 issued by the Administrative Department, which authorizes the competent authority to seal the building under section 8 of the COBO Act, 1988 and after sealing is done, the property can be kept under the custody of the local police and the police can take appropriate action, if the violator restores the construction work.

06. Since the activity of the petitioner in raising the construction in absence of a valid permission, has seriously affected the plan development under the Jammu Master Plan 2032. The premises of the building was sealed under the provisions of the COBO Act, 1988, while invoking the powers by the Chief Enforcement Officer, Building Operation Controlling Authority, Jammu/Samba Local Area under section 8(1) of the J&K Control of Building Operations Act 1988 read with order No. 51-JDA of 2022 dated 05.09.2022.

07. Thus, I have gone through the impugned order of sealing and the reasons spelt out for such sealing. The only grievance which has been projected by the petitioner in the instant petition is that the petitioner has not been served the notices under sections 7(1), 12(1), 12(2), 12(3) and 7(3) of the Jammu and Kashmir Control of Building Operations Act, 1988 before passing the impugned order of sealing and the plea of the petitioner has been dislodged by the production of the original record, which proves beyond any shadow of doubt that all the statutory notices (supra) have been served upon the petitioner and even the petitioner has also replied to the notice issued under section 7(1) of the Jammu and Kashmir Control of Building Operations Act, 1988. The reply filed by the petitioner before the respondents has also been examined by this Court.

08. Thus, from the stand taken by the petitioner and also going through the

original record which has been produced before this Court by Mr. Atul Verma, learned counsel for the respondents, this Court is of the considered view that the petitioner has come to this Court with unclean hands and tried to suppress the material facts with a view to mislead this Court.

09. In this backdrop, the present writ petition, which is utterly misconceived, false and frivolous, liable to be dismissed and even the petitioner could not satisfy this Court with regard to any justifiable reason where this Court can exercise the power under Article 226 of the Constitution for invoking the power for such sealing order, which is perfectly legal and is passed after following the due process of law.

10. It is reiterated at the cost of repetition, that a person, who pleads equity must come with clean hands and anybody who tries to mislead the Court by suppressing the material facts, the discretionary relief cannot be granted to such a person, who comes to the Court with unclean hands. Accordingly, the instant petition is dismissed in *limine* as the same being utterly misconceived on false and flimsy grounds.

11. The original record as produced by the learned counsel for the respondents is returned to him in the open court.

(WASIM SADIQ NARGAL)
JUDGE

JAMMU
14.10.2025
Rakesh

Whether the order is speaking: Yes/Nb
Whether the order is reportable: Yes/Nb