

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT
SRINAGAR**

Reserved on: 10.10.2025

Pronounced on: 17.10.2025

Uploaded on: 17.10.2025

*Whether the operative part or full
judgment is pronounce: **Full Judgment***

WP(C) No.688/2025

INHABITANTS OF BLOCK HARWAN

...PETITIONER(S)

Through: - Mr. Salih Pirzada, Advocate.

Vs.

UT OF J&K & ORS.

...RESPONDENT(S)

Through: - Mr. Ilyas Nazir Laway, GA.

CORAM: HON'BLE Mr. RAJNESH OSWAL, JUDGE

JUDGMENT

1) The petitioners, who are the residents of different villages of Block Harwan, have filed the instant writ petition for grant of following reliefs:

By a writ of Mandamus;

- (a) declare that J&K Lakes Conservation and Management Authority does not have any jurisdiction over Block Harwan (Halqa Fakirguri A & B, Gandtal, Syedpora, Theed A&B, Dara A&B).
- (b) Direct the respondent No.5 not to create any interference in the matters which are otherwise regulated under Panchayati Raj Act, 1989.

By a writ of Certiorari : Quash the impugned notices dated 15.03.2025, 17.03.2025 and 19.03.2025 issued by respondent No.5 (Annexure-I).

2) It is stated by the petitioners that initially their villages did not fall within the jurisdiction of respondent No.5 but in terms of SRO 57 of 1998 dated 16.02.1998, Villages Harwan,

Theed, Dara, Murinderbad, Mufti Bagh and Fakirgujri also came to be included in the substituted list of local areas within the jurisdiction of respondent No.5. The Government, while invoking Section 3(3) of the J&K Municipal Corporation Act, 2000, excluded number of villages including those of the petitioners from the jurisdiction of Srinagar Municipal Corporation by virtue of SRO 238 and 239 dated 08.08.2014. After such exclusion, the Government included Harwan as a Block under the Panchayati Raj Act, 1989 and, as such, Fakirgujri A&B, Gandtal, Syedpora, Theed A&B, Dara A&B etc. were included as Halqas within Block Harwan. In pursuance of notification issued under Panchayati Raj Act, the petitioners and other residents of Block Harwan were granted building permission under Section 12(iv) of Panchayati Raj Act read with Rule 155 of Panchayati Raj Rules by the competent authority designated in terms of Government Order No.11-RD & PR of 2022 dated 22.01.2022. It is further averred that in the Legislative Assembly, two questions in respect of unauthorized constructions and permissions in the areas including those of the petitioners, were raised, which ultimately came to be referred to the respondent No.5 and thereafter the respondent No.5 started issuing notices under Control of Building Operations Act, 1988, alleging violation of building laws. The petitioners, as such, have impugned

the action of the respondent No.5 in respect of action taken under Control of Building Operations Act, on the premise that their villages fall beyond the area within the jurisdiction of respondent No.5 and the power to grant the building permission vests with the statutory authorities under the Panchayati Raj Act, 1989. The petitioners have placed on record the notice and order issued by the respondent No.5 and also some of the building permissions.

3) The respondents in turn have come up with the response stating therein that the areas regarding which notices/orders have been issued in respect of illegal and unauthorized construction, already fall within the jurisdiction of respondent No.5 and respondent No.5 has not extended the jurisdiction over these areas as alleged by the petitioners. The respondents have further stated that in terms of SRO 57 dated 1.02.1999, the areas of CD Block Harwan came under the jurisdiction of Jammu and Kashmir Lake Conservation and Management Authority (for short "LCMA") and, as such, it is within the domain of LCMA to regulate the development and constructions in terms of Control of Building Operations Act, 1988, within its delineated local jurisdiction and the Enforcement Wing of the Authority supervises and monitors that only permitted/sanctioned constructions in the jurisdiction of

LCMA are carried out and in case any person who intends to construct any residential, commercial building or to carry out any renovation, repairs etc. in the delineated area of LCMA, he has to file an online application on OBPS software. It is further averred that the areas of LCMA in any case fall within SMC for the purpose of Municipal Elections and within the Rural Development Department for the purposes of Panchayati Raj Elections and, in fact, by referring to the Jammu and Kashmir Municipal Corporation Act, 2000 and the Jammu and Kashmir Panchayati Raj Act, 1989, the petitioners want to create unnecessary confusion as the authority to grant permission for construction of residential buildings with respect to such areas, which do not fall within the jurisdiction of LCMA, vests with the Rural Development Department in light of Government Order dated 22.01.2022. However, for developing hotel or any commercial structure in the same rural area, the authority vests with the concerned Sub-Divisional Magistrate under rules.

4) Mr. Salih Pirzada, learned counsel for the petitioners has reiterated the submissions made in the petition as referred above.

5) *Per contra*, Mr. Ilyas Nazir Laway, learned GA, has submitted that the villages of the petitioners fall within the jurisdiction of LCMA and it is the LCMA that is competent

to grant permission for raising any residential or commercial construction. He has placed reliance upon Government Order dated 01.04.2022, which was taken on record when the matter was heard and reserved for judgment, to submit that the areas within the jurisdiction of LCMA have been specifically excluded from the purview of Government Order dated 22.01.2022 issued under Panchayati Raj Act.

6) Heard and perused the record.

7) This is admitted case of the petitioners that their villages falling in Block Harwan came within the jurisdiction of LCMA in terms of SRO 57 of 1998. The contention of the petitioners is that in terms of Government Order dated 22.01.2022, a competent authority/committee was constituted by the Government for grant of permission for construction/re-construction/alteration of residential/commercial buildings in rural areas of J&K and as the villages of the petitioners in Block Harwan fall within the ambit of J&K Panchayati Raj Act, 1989, therefore, the authority/committee constituted in terms of Government Order dated 22.01.2022 is the only competent authority to grant permission for raising construction/re-construction/alteration of residential/commercial buildings in rural areas of J&K and that is why valid permission has been granted for raising construction. In terms of SRO 32 dated 10th

January, 2019, the Government notified the names of the Sarpanches and Panches in District Srinagar which included the villages of the petitioners as well.

8) The petitioners are trying to justify the permissions granted by the office of Block Development Officer, Harwan, by conjoint reading of SRO 32 of 2019 and Government Order dated 22.01.2022. However, in terms of Government Order dated 01.04.2022 the areas within the jurisdiction of any Tourism Development Authority/any other Authority empowered under any other Act or law stand excluded from the ambit of the Government Order dated 22.01.2022. The relevant extract of Government Order dated 01.04.2022 is reproduced as under:

“Government Order No.11-RD&PR of 2022 dated 22.01.2022 issued order endorsement No. RDD-Pnch 269/2021 dated 22.01.2022, shall not be applicable in the areas falling under the jurisdiction of any tourism Development Authority/Any other Authority empowered under any other Act or law in accord building permissions.”

9) In view of the Government Order dated 01.04.2022, the relief sought by the petitioners for declaring that respondent No.5 does not have any jurisdiction over Block Harwan (Halqa Fakirgujri A&B, Gandtal, Syedpora, Theed A&B and Dara A&B) cannot be granted.

10) It was next contended by learned counsel for the petitioners that valid permissions have been granted, and as

such, the respondent No.5 has no jurisdiction to issue notice/order under Control of Building Operations Act. The petitioners have placed on record the building permissions issued by Block Development Officer concerned in favour of Mudasar Khurshid Naqib, Uzma Manzoor, Hanan Maqbool and Gulla Phamda. However, no permission to raise construction in respect of petitioners has been annexed with the present petition and also no notice has been issued to the petitioners, as is evident from the documents annexed with the writ petition. The notice issued under Section 7(1) of the J&K Control of Building Operations Act can be replied by the alleged violator and if the order under Section 7(3) of the Control of Building Operations Act has been issued, then the same is appealable before the Appellate Authority. The petitioners have no locus-standi to challenge the notice/order 15.03.2025, 17.03.2025 and 19.03.2025 issued by respondent No.5, particularly when the persons aggrieved of the notice/order has not chosen to assail the same.

11) In view of the above discussion, the present petition is found to be misconceived and the same is dismissed.

(RAJNESH OSWAL)
JUDGE

Srinagar
17.10.2025
“Bhat Altaf”

*Whether the **judgment** is reportable:* **No**