

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

WP (C) No. 1903/2023

Dev Anand

.....Petitioner(s)

Through :- Mr. Gagan Basotra, Sr. Adv. with
Mr. Salil Gupta, Advocate.

v/s

Building Operation Controlling
Authority and others

.....Respondent(s)

Through :- Mr. Mayank Gupta, Advocate.

CORAM: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER

29.07.2026

1. Heard learned counsel for the parties and perused the record.
2. The petitioner has assailed the order passed by respondent No. 2 under Section 8(1) of the Jammu and Kashmir Control of Building Operations Act, 1988, whereby the petitioner's residential premises comprising the Ground Floor, First Floor and Second Floor situated at Plot No. 67-A/D, Gandhi Nagar, Jammu, came to be sealed on the allegation that the construction had been raised in deviation from the sanctioned building plan.
3. It is pertinent to note that, vide interim order dated 16.12.2023, this Court had directed the respondents to de-seal the premises and to undertake a fresh inspection of the building in question so as to identify and specify the exact nature and extent of the alleged violations, if any.
4. Learned counsel appearing for the respondents submitted that, pursuant to the aforesaid directions, a fresh inspection was conducted in the presence of the petitioner. It is contended that the inspection revealed substantial

deviations from the sanctioned building plan. It was further submitted that the Jammu and Kashmir Unified Building Bye-laws, which came into force in the year 2021, govern the field and are applicable to the present case.

5. *Per contra*, learned counsel for the petitioner disputed the findings of the inspection and contended that, in view of the provisions contained in the Master Plan-2032 and the Jammu and Kashmir Unified Building Bye-laws 2021 the alleged deviations are merely minor in nature and fall within the category of compoundable violations. It was, therefore, argued that the competent authority is vested with the power to consider and compound such violations in accordance with the applicable Bye-laws.
6. During the course of hearing, it was brought to the notice of the Court that the petitioner had been granted permission in the year 2017 for construction of a G+2 residential structure. According to the respondents, however, the petitioner deviated from the sanctioned plan by raising construction involving violations to the extent of 29.41% on the Ground Floor, 37.84% on the First Floor, 32.47% on the Second Floor and 100% on the Third Floor. It was further submitted that the alleged deviations primarily relate to projections and setbacks.
7. Since a fresh inspection has already been carried out during the pendency of the writ petition, in compliance with the earlier directions of this Court and in the presence of the petitioner, this Court is of the view that the matter deserves to be considered afresh by the competent authority in the light of the Jammu and Kashmir Unified Building Bye-laws, as amended and in force on the date of consideration. The competent authority shall

determine the nature and extent of the alleged violations, examine whether the same are compoundable under the applicable Bye-laws and pass a speaking order in accordance with law.

8. Accordingly, without expressing any opinion on the merits of the rival contentions, the present writ petition is disposed of with a direction to the respondents to consider the case of the petitioner strictly in accordance with the Jammu and Kashmir Unified Building Bye-laws as in force on the date of consideration, determine the nature of the alleged violations and their compound ability, if any, by passing a reasoned and speaking order.
9. Till such consideration is given and a final decision is rendered, no coercive steps shall be carried against the petitioner, however he shall file an undertaking before the Commissioner concerned that he shall neither undertake any further construction over the property in question nor convert the residential premises into commercial use. In the event of any breach of the said undertaking during the pendency of the proceedings before the competent authority, it shall be open to the respondents to initiate action in accordance with law.
10. The writ petition stands ***disposed of*** in the above terms along with all connected applications, if any.

(Sanjay Parihar)
Judge

JAMMU
29.07.2026
Diksha