

**HIGHCOURT OF JAMMU & KASHMIR AND LADAKH AT
JAMMU**

Case No:-WP(C) No.2134/2026

CM No.4605/2026

Date of pronouncement:12.08.2026

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Naveen Angral, Age 52 years
S/O Sh.Omkar Nath R/O
Ward No.5, Bari Brahmana, Jammu.

Through: Mr. Sachin Gupta, Advocate with
Ms. Arsha Sharma, Advocate

Vs

1. Building Operation Controlling
Authority, through its Chairman,
Executive Officer, Municipal
Committee, Bari Brahmana, Samba.
2. Municipal Committee through
Executive Officer, Municipal
Committee, Bari Brahmana, Samba.
3. Khilafwarzi Officer,
Municipal Committee, Bari
Brahmana, Samba.

..... Respondent(s)

Through: Mr. Ravinder Gupta, AAG with
Ms. Mehar Bali, Advocate

Coram: HON'BLE MR. JUSTICE SANJAY PARIHAR

ORDER

12.08.2026

1. By way of the present writ petition preferred under Article 226 of the
Constitution of India, the petitioner seeks the following relief:

“Issue Writ of Certiorari quashing the order dated 18.06.2026 to the extent of imposing compounding fee of 5 times of the prescribed compounding fee as per the Appendix D of the Unified Building Bye-Laws, 2021, passed by the learned Tribunal as the same is discriminatory, perverse and illegal in the eyes of law; with the further prayer of modification of impugned order dated 18.06.2026, and issuance of direction that the compounding fees may be charged as per Appendix-D.”

2. The petitioner claims to be the absolute owner and in lawful possession of the land situated near SIDCO Chowk, Ward No. 05, Bari Brahmana, Jammu. The petitioner approached respondent No.3 seeking approval/sanction of the site plan and building plan, as required under law. Upon due scrutiny and verification, respondent No. 3, vide Order No.MC/BB/2023/303 dated 17.12.2020, granted permission in favour of the petitioner to raise construction comprising a basement, ground floor, first floor and second floor. After obtaining the requisite building permission, the petitioner commenced construction at the premises in question. However, the respondents, without any apparent justification, issued a show-cause notice dated 30.12.2025 under Section 7(1) of the Control of Building Operations Act, 1988, calling upon the petitioner to show cause as to why the alleged unauthorized construction should not be demolished. The petitioner duly submitted his reply to the said show-cause notice. However, without duly considering or dealing with the reply submitted by the petitioner, the respondents proceeded to issue a demolition notice dated 03.12.2025 under Section 7(3) of the Control of Building Operations Act, 1988, directing the petitioner to demolish the alleged unauthorized construction within a period of five days. Aggrieved of the aforesaid notice issued under Section 7(3) of the Control of Building Operations Act, 1988, the petitioner preferred an appeal before the J&K Special Tribunal, Jammu.
3. The learned Special Tribunal, vide impugned order dated 18.06.2026, after noticing the excess construction raised by the petitioner in violation and against sanctioned plan, has observed in paras 12 & 13 of the order as under:-

“12. Coming to the extent of violations of the sanctioned plan is revealed from the order impugned itself that against the permitted basement area of 767 sqt, appellant has constructed 2100 sqt. which is almost 3 times but it is not the case of the respondent that appellant has gone beyond the envelop of his plot. Similarly, against the sanctioned area of 1197 sqt. of the ground floor, first floor and second floor, appellant has constructed 2250 sqt. each at ground floor and first floor but no construction has been raised so far at the second floor. This construction has been raised by the appellant over a plot area of 4220 sqt. which covers around 50% of the plot area. The other details of violations as to set-backs etc. are not made available and as per UBBL 2021, Table 5-4, appellant was permitted to cover 50% of the plot area and hence, there is no violation to that extent. It is also not the case of the respondent that appellant has made violations particularly the front set-back and rather the photographs placed on record reflect that there is open space left at the front side and the construction does not violate the building line as existing on spot.

13. In the circumstances, the excess construction raised by the appellant in violation and as against sanctioned plan is ordered to be regularized.

I. Appellant shall file an application for the regularization of the construction raised by him without permission within 7 days on receipt of such application, respondent shall be regularized on payment of five times of compounding fee for commercial structures as regularization charges as provided under the Appendix “D” Part B.B. of the J&K Unified Building Bye-Laws, 2021.

II. The order is further subject to furnishing of a personal undertaking by the appellant that he shall not raise any further construction or make any additions, alterations or modifications without obtaining permission from the competent authority.

III. The respondents are at liberty to charge any other charges compulsory payable by the appellant on account of the increase in construction area.”

4. The direction to the extent of imposing compounding fee of (05) five times of the prescribed compounding fee as per the Appendix of the Unified Building Bye-Laws, 2021 passed by the Tribunal, is challenged in the instant writ petition being discriminatory, perverse and illegal in the eyes of law and prayed for modification of the impugned order with a

direction that the compounding fees may be charged as per Appendix-D.

5. Learned counsel for the petitioner submits that the learned Tribunal while passing the impugned order has not appreciated the rule position stipulated in Appendix-D, Part B.B. Compoundable items of the J&K Unified Building Bye-Laws, 2021 as there are different rates given for different types of violations which can be regularized. The Tribunal has overlooked the fact that the Appendix-D, Part B.B. Compoundable items, as the rates for commercial building is Rs.1000/-, whereas the Tribunal has directed the petitioner to pay 05 times of the compounding fee for the commercial structure as regularization charges provided under Appendix-D, Part B.B. Compoundable items of the J&K Unified Building Bye-Laws, 2021.
6. Learned counsel for the petitioner has produced a photo-copy of the Government Order No. 157-JK(HUD) of 2026 dated 29.07.2026 passed by the Housing & Urban Development Department, Govt. of Jammu & Kashmir, in supersession of all previous notifications/orders/instructions issued by any Municipal Corporations/Urban Local Body or Development Authority, prescribing Uniform Building Permission Fee Schedule. With the aforesaid submissions, learned counsel for the petitioner finally prayed that the writ petition be allowed and the impugned order dated 18.06.2026 passed by the Tribunal be quashed to the extent of imposing compounding fee of 05 times of the prescribed compounding fee as per the Appendix D of the Unified Building Bye-Laws, 2021 and direct the compounding fee be charged in terms of the Government Order No. 157-JK(HUD) of 2026 dated 29.07.2026 (supra).
7. Mr. Ravinder Gupta, learned AAG, appearing on behalf of respondents,

resisted the prayer of the petitioner tooth and nails. He submitted that the impugned order is reasoned one and no other view is possible than the one took by the learned Tribunal. He prayed that the instant petition is liable to be dismissed.

8. Heard learned counsel for the parties and perused the record as well as the relevant statutory provisions governing the field. The controversy in the present petition essentially pertains to the quantum of compounding/regularization charges leviable in respect of the deviations made by the petitioner during the course of construction. The learned Tribunal, while setting aside the demolition order and permitting regularization of the construction, directed the petitioner to pay five times the prescribed compounding fee applicable to commercial buildings under Appendix-D, Part B.B. (Compoundable Items) of the J&K Unified Building Bye-Laws, 2021. The grievance of the petitioner is confined to the said direction insofar as it requires payment of compounding charges at five times the prescribed rate.
9. During the pendency of the present petition, the Government, through the Housing & Urban Development Department, has issued Government Order No. 157-JK(HUD) of 2026 dated 29.07.2026, in supersession of all previous notifications/orders/instructions issued by any Municipal Corporation, Urban Local Body or Development Authority, prescribing a Uniform Building Permission Fee Schedule.
10. In view of the aforesaid Government Order, which now governs the levy of the relevant charges, this Court is of the considered opinion that the direction contained in the impugned order dated 18.06.2026, requiring the petitioner to deposit five times the prescribed compounding fee, cannot be

sustained to that extent. Accordingly, the impugned order is modified to the extent that the petitioner shall be liable to pay the applicable compounding/regularization charges in respect of the subject commercial structure in terms of Government Order No. 157-JK(HUD) of 2026 dated 29.07.2026. The competent authority shall, upon payment of the requisite charges and subject to fulfilment of all other applicable statutory requirements, take consequential steps for regularization of the construction in accordance with law.

11. The writ petition is, accordingly, **disposed of** in the aforesaid terms. All pending application(s), if any, shall also stand disposed of.

Jammu
12.08.2026
Narinder

(**Sanjay Parihar**)
Judge

Whether order is speaking? Yes.
Whether order is reportable? No.

