

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.14493 of 2025
Date of Decision: 31.08.2026

Parmod Bamba Petitioner

Versus

The Municipal Corporation & Anr. ... Respondents

Coram:

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting? ¹

For the Petitioner: Mr. Vinay Kuthiala, Senior Advocate with Mr. Diwan Singh Negi, Advocate.

For the Respondents: Mr. Deepak Sharma, Advocate.

Sandeep Sharma, Judge(oral):

By way of instant petition filed under Article 226 of Constitution of India, petitioner has prayed for the following main relief:-

“a. That a writ in the nature of mandamus may be kindly be issued directing the respondents to process the Building plans submitted by the petitioner in 2015 and to sanction the same in accordance with the bye-laws, Notifications and Interim Development Plan in force at that time.”

2. Precisely, the case of the petitioner, as has been highlighted in the petition and further canvassed by Mr. Vinay Kuthiala, learned Senior Counsel duly assisted by Mr. Diwan Singh Negi, learned counsel for the petitioner, is that revised plan submitted by the petitioner in the year 2016 is required to be considered and decided in the light of Interim Development Plan promulgated vide

¹Whether the reporters of the local papers may be allowed to see the judgment?

Notification dated 13.08.2015, published in the Rajpatra (Annexure P-2), for the reason that the same was submitted strictly in terms of the aforesaid Notification. The revised plan of the petitioner, therefore, cannot be considered and decided in the light of the Development Plan, which subsequently came to be approved by the Hon'ble Apex Court vide judgment dated 11.01.2024, as the said Development Plan, for all intents and purposes, would come into force only from the date of passing of the aforesaid judgment by the Hon'ble Apex Court.

3. Precisely, the facts of the case as emerge from the pleadngs as well as other material adduced on record by the respective parties are that initial building plan of the petitioner was approved vide sanction order No.261 (AP) dated 16.06.2011 (Annexure R-1/1) for the construction of a two-storeyed structure with a sloping roof on Khasra Nos. 669 and 670, situate at North Bank Estate, Shimla. Petitioner did not commence any construction work pursuant to the aforesaid sanction order, however, submitted a revised proposal (Annexure R-1/2), in respect of the same Khasra numbers vide application dated 02.12.2015, proposing construction of a four-storeyed building comprising a parking floor and a sloping roof. The revised proposal was examined by the Municipal Corporation, Shimla and returned with the following observations:

- *Submission of a fresh NOC from Public Works Department (PWD) regarding access to the proposed parking floor;*
- *Front setback to be proposed as per Government notification dated 28.6.2016; and*
- *Submission of latest revenue documents and tax NOC.*

4. Revised proposal remained unapproved for want of certain documents and compliance with the requisite formalities. However, subsequently the petitioner submitted a revised completion plan on 14.12.2022, (Annexure R-1/3), showing construction of two-storeyed structure with a sloping roof, based upon the plan previously sanctioned vide Order No.261(AP) dated 16.02.2011. However, fact remains that till date, no decision has been taken upon the same, as a result of thereof, petitioner is compelled to approach this Court in the instant proceedings, praying therein for relief, as has been reproduced hereinabove.

5. Respondent-Municipal Corporation has filed reply, wherein facts as have been noticed hereinabove, have not been disputed, rather an attempt has been made to refute the claim of the petitioner on the pretext that petitioner carried out construction work on the basis of the plan sanctioned in the year 2011 and the revised completion plan submitted in the year 2022 was examined and returned with certain observations (Annexure R-1/4). Petitioner again

submitted a revised /completion plan, showing the existing two-storeyed structure and proposing construction of two additional storeys plus a sloping roof, along with a proposal to open the existing retaining wall to be used as parking floor. The proposal submitted in the year 2015 was in respect of construction on a vacant plot, whereas, at the time of submission of revised plan, the petitioner had already constructed two storeys at the site on the basis of the plan sanctioned in the year 2011. Therefore, the revised proposal submitted in the year 2015 became untenable for consideration.

6. In nutshell, case of the Municipal Corporation is that revised proposal dated 02.12.2015 for construction of four-storeyed building plus parking floor was never approved by the Municipal Corporation and construction executed at site has to conform to the plan sanctioned in the year 2011. It has been further stated in the reply filed by respondent-Municipal Corporation that request to consider the revised proposal submitted in the year 2015 as the basis for grant of the present approval is not tenable, as the said proposal pertained to a vacant plot, whereas the petitioner has already constructed two storeys at the site on the basis of the plan sanctioned in the year 2011.

7. Admittedly, in the case at hand, no final decision till date has been taken qua the revised proposal submitted by the petitioner

in the year 2015 for construction of four-storeys plus parking floor. True it is that initially permission was granted to the petitioner to construct two-storeyed structure vide sanction order No. 261(AP) dated 16.02.2011, but before any construction could be carried out pursuant to the aforesaid sanction order, petitioner submitted a revised proposal vide application dated 03.01.2015 proposing the construction of a four-storeyed building with a parking floor and a sloping roof. It is not in dispute that the afore proposal was strictly in terms of Interim Development Plan approved in the year 2015, but before afore proposal could be taken to its logical end, National Green Tribunal passed an order dated 16.11.2017, thereby imposing a complete ban on construction activities in Shimla, as a result thereof, revised proposal submitted by the petitioner remained pending consideration. In the meantime, petitioner, who had already been granted sanction vide Order No. 261 (AP) dated 16.02.2011 for construction of a two-storeyed building, proceeded to construct the said two storeys, but fact remains that till date, that partial construction has not been approved. It is also not in dispute that the aforesaid order dated 16.11.2017 passed by the National Green Tribunal, whereby construction activities in Shimla were banned, was set aside by the Hon'ble Apex Court vide order dated 11.01.2024 passed in Civil Appeals No. 5348 and 5349 of 2019, as a result

thereof, construction, if any, carried out by the petitioner or other similarly situate persons pursuant to Interim Development Plan of 2015 was required to be considered for approval, but same has not been done till date. Hon'ble Apex Court, while passing aforesaid order, categorically permitted the State to proceed with the implementation of the Development Plan as published on 20.06.2023, meaning thereby, from the date of passing of aforesaid judgment by the Hon'ble Apex Court, construction in the State of Himachal Pradesh is required to be carried out in terms of Development Plan published in the year 2023.

8. However, question, which needs to be determined in the case at hand, is whether plans, if any, submitted in terms of Interim Development Plan of 2015 can be denied approval on the ground that in terms of judgment passed by the Hon'ble Apex Court, construction is necessarily required to be carried out strictly in terms of Development Plan of 2023. Careful perusal of judgment passed by the Hon'ble Apex Court nowhere suggests that Hon'ble Apex Court, while permitting State of HP to proceed with the implementation of Development Plan 2023, also directed that plans submitted prior to publication of Development Plan 2023, in terms of Interim Development Plan 2015, shall also be considered in light of Development Plan 2023, meaning thereby, construction, if any,

carried out or proposal, if any, submitted pursuant to Interim Development Plan 2015 is required to be considered strictly in terms of Interim Development Plan of 2015 as has been held by the Division Bench of this Court in judgment dated 23.08.2022 passed in Civil Writ Petition No. 7876 of 2021, titled ***Tarun Bakhshi & Ors. Vs. State of Himachal Pradesh & Ors.*** Relevant paras of the afore judgment are extracted herein below:-

“21. From the aforesaid discussion, it is abundantly clear that the respondents while rejecting the building plan of the petitioners have acted contrary to their own instructions and, therefore, their action is not sustainable.

22. That apart, respondents have unnecessarily and unduly been influenced by the order passed by the NGT, which in the given facts and circumstances of the case was neither attracted nor applicable to the case of the petitioners more particularly when the petitioners had submitted their building plan on 03.08.2017 i.e. much prior to the order passed by the NGT on 16.11.2017 and the same had even been examined and thereafter referred to the inter-departments of the Corporation for seeking NOC and also referred to the Forest Department for grant of NOC vide communication dated 24.10.2017 i.e. again prior to the passing of the order of the NGT.

23. In view of the aforesaid reasons stated above, we find merit in this petition and we quash the order dated 04.12.2020 (Annexure P-49), order dated 29.12.2018 (Annexure P-21) and also set aside and quash the orders/proceedings dated 17.12.2018, 08.07.2019 and 06.01.2020 of 45th, 49th and 54th meetings of House Plan Approval Committee of

respondent No. 4 and accordingly direct the respondents to consider and if found in order, grant planning permission to the petitioners on the application/building plan submitted on 03.08.2017, as per the law/rules, as applicable on the said date within a period of three months from today and report compliance on 18.11.2022.”

9. Reliance is also placed upon judgment dated 27.06.2023 passed in CWP No.2255 of 2023, titled **Umesh Akre Vs. The State of Himachal Pradesh & Ors.**, wherein Division Bench, while placing reliance upon judgment passed in **Tarun Bakshi** (supra), allowed the prayer of the petitioner to grant planning permission on the application/building plan submitted as per law/rules as applicable on the said date within a specified period of time.

10. Consequently, in view of discussion made herein above as well as law taken into consideration, this Court finds merit in the present petition and accordingly, the same is allowed. Order dated 20.03.2024 (Annexure P-8) is quashed and set aside. Respondents are directed to process the building plan submitted by the petitioner in the year 2015 and to sanction the same in accordance with bye-laws, notifications and Interim Development Plan in force at that relevant point expeditiously, preferably within eight weeks from today. Pending applications, if any, stand disposed of.

**(Sandeep Sharma),
Judge**

August 31, 2026
(sunil)