



HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 1880 of 2026 (MS)

Geetika Gurung

...Petitioner

Versus

State of Uttarakhand and others

...Respondents

Advocates : Mr. Arvind Kumar Sharma, Advocate for the petitioner
Mr. Ghanshyam Joshi, Additional CSC for the State
Mr. Sandeep Kothari, Advocate for respondent No. 4.

Reserved on :17.06.2026

Delivered on :06.07.2026

Hon'ble Manoj Kumar Tiwari, J.

1. Petitioner earlier filed Writ Petition (MS) No. 2302 of 2025, seeking the following reliefs:

“i. A Writ, Order or Direction in the nature of Mandamus directing the respondent no. 4 to demolish the illegally constructed top floor/second floor building structure of respondent no. 5 and cancel the House Map No. 24/ 2019 dated 12.07.2019 and Compounding Map No. NDA/CR/ 0113/202324 (Reference in Annexure No. 7) passed in favor of Tarunendra Amber Shukla/ respondent no. 5, to the extent of violation of Building Construction and Development Bye-Laws, 2011 and (Amendment), 2021 (Annexure No. 8.).

ii. A Writ, Order or Direction in the nature of Mandamus directing the respondent no. 4 to demolish the illegally constructed top floor/second floor building structure of respondent no. 6 and cancel the House Map No. 35/2019 dated 12.07.2019 and Compounding Maps No. NDA/SR/0018/24-25 (Reference in Annexure No. 7) passed in favor of Manvendra Amber Shukla/ respondent no. 6, to the extent of violation of Building Construction and Development Bye-Laws, 2011 and (Amendment), 2021 (Annexure No. 8.).”

2. The said writ petition was disposed of vide order dated 05.01.2026 with a direction to the Secretary, District Level Development Authority, Nainital to take



decision on the representation of the petitioner. The representation made by petitioner has been rejected by the Secretary of the Development Authority vide order dated 14.05.2026, which is under challenge in this writ petition.

3. Perusal of the impugned order reveals that respondent Nos. 5 and 6 had applied for sanction of house plan and sanction was granted by the competent authority on 12.07.2019; it further reveals that after constructing houses respondent Nos. 5 and 6 made application for compounding the deviation from the sanctioned house plan and their prayer for compounding was granted on 05.02.2024 and 03.07.2025 respectively.

4. Petitioner contended in her representation that respondent Nos. 5 and 6 carried out construction in violation of applicable building bye-laws; the width of the approach road leading to the house of respondent Nos. 5 and 6 is only 12 ft., as such, the maximum permissible height of construction is 6.0 meters only, however, height of the building constructed by respondent Nos. 5 and 6 exceeds the permissible limit i.e. 6.0 meter, which is obstructing the natural view from petitioner's property and has resulted in diminution of the value of the property.

5. It was further contended that minimum open space of 4 ft. around the building, is required to be left as per building bye-laws but was not left by respondent Nos. 5 and 6 and they have raised construction within the



setback area, by constructing a room abutting the retaining wall; a staircase has also been constructed by respondent Nos. 5 and 6 upon other person's land and they have also made a park beneath a high-tension line.

6. The impugned order reveals that the Secretary called a report on the issues raised by petitioner from the concerned Engineer and as per the report, width of the approach road leading to the building of respondent Nos. 5 and 6 is 4.50 meter. Secretary relied upon the report which indicates that as per the building bye-laws applicable in 2019, sanction was granted for construction upto the height of 8.45 meters plus 1.20 meter for ridge, total 9.65 meters.

7. Report submitted by the Engineer is reproduced in the impugned order. It indicates that house of the petitioner is adjoining the houses of respondent Nos. 5 and 6 and Bhimtal Lake is on the backside of these houses, as such the contention that natural view of the petitioner is blocked due to the construction raised by respondent Nos. 5 and 6 is not correct.

8. Since deviation from the sanctioned house plan by respondent Nos. 5 and 6 was compounded by the competent authority in the year 2024 and order of compounding has attained finality, therefore, no penal action could have been taken by the Secretary against respondent Nos. 5 and 6 on the grounds taken by petitioner in her representation.



9. Perusal of the impugned order reveals that petitioner did not produce any material before the Secretary to substantiate the allegations made in her representation. The Secretary has also commented on the inappropriate conduct of the petitioner during the course of hearing before him.

10. Since the Secretary has considered all relevant aspects and has taken a decision based on report submitted by Engineer of the Development Authority, therefore in the absence of any perversity in the impugned order, this Court is not inclined to interfere with the findings returned in the impugned order, while exercising power of judicial review.

11. For the aforesaid reasons, the writ petition fails and is dismissed.

(Manoj Kumar Tiwari, J.)

06.07.2026

Mahinder/