SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			UKHC010202092026 **WPMS/3497/2026** Lal Singh --Petitioner **Versus** State Of Uttarakhand & Anr. --Respondents **Hon'ble Siddhartha Sah, J.** Mr. Manish Lohani, learned counsel for the petitioner. 2. Ms. Mamta Bisht, learned D.A.G. for the State/respondent no.1. 3. Mr. Sandeep Kothari, learned Standing Counsel for the District Level Development Authority, Nainital/respondent no.2. 4. By means of the present writ petition, the petitioner has sought the following reliefs:- "(i) Issue a writ, order or direction in the nature of Certiorari calling for the records and be pleased to quash the impugned sealing action dated 04-11-2026 in respect of the petitioner's shop/building situated at Tera Road, Lakhanpur, near Asthan Mall, Ramnagar, District-Nainital, by the respondent no. 2 by violating of the relevant provisions of the Uttarakhand Urban and Country Planning and Development Act, 1973. (ii) Issue a writ, order or direction in the nature of mandamus directing the respondents to de-seal the petitioner's building and restore access to the petitioner's shop, subject to reasonable conditions as this Hon'ble Court may deem fit. (iii) Direct the respondents to furnish certified copies of the sealing order, inspection report, notices, proof of service, relevant file notings, delegation/authorisation

and all documents forming the basis of the sealing action.

(iv) Restrain the respondents from undertaking demolition, dispossession or any irreversible action against the property except in accordance with law and after compliance with applicable statutory requirements."

5. Learned counsel for the petitioner submits that the petitioner is an occupant of an approximately 60-year-old building situated on Nazul land, wherein the petitioner is also running a fast food shop, namely, "Himalaya Food Court", on the ground floor of the building for the livelihood of his family. The building had allegedly deteriorated considerably on account of its age and condition. The petitioner states that the construction work was undertaken bona fide to address the unsafe and dilapidated condition of the building and to protect the lives and safety of the persons working in the shop as well as those visiting the shop as customers.

6. It is further submitted that on 04.11.2026, at approximately 5:00 p.m., the Junior Engineer of respondent no. 2, accompanied by about four to five persons, allegedly sealed the entire building, including the petitioner's shop. A true copy of the photographs depicting the sealing of the petitioner's shop/building has been filed on record as Annexure No. 2 to the petition.

7. It is further submitted on behalf of the petitioner that no prior notice, written sealing order, inspection report or particulars of the alleged violation were supplied to the petitioner, which amounts to a complete violation of the provisions of the Uttarakhand Urban and

			Country Planning and Development Act, 1973 (for short, "the Act, 1973"). The petitioner has, therefore, challenged the sealing action taken by respondent no. 2 on the ground that no prior show-cause notice, demolition notice, sealing notice, inspection report or written order was served upon the petitioner before taking such action. On the aforesaid premise, the petitioner has sought the aforementioned reliefs. 8. Mr. Sandeep Kothari, learned Standing Counsel for the District Level Development Authority, Nainital/respondent no. 2, upon instructions, has placed before the Court, for its perusal, a sealed memo containing an endorsement made by Mr. Sameer Ahmed, Junior Engineer, District Level Development Authority, Regional Office, Haldwani, which bears the approval of the Joint Secretary, District Development Authority, Regional Office, Haldwani. 9. The learned Standing Counsel for the District Level Development Authority, Nainital/respondent no. 2, would submit that since the petitioner was admittedly raising unauthorized construction, the premises in question, where such unauthorized construction was being carried out, were sealed on the spot to prevent the petitioner from carrying out any further unauthorized construction. He would further submit that the sealing action was subsequently approved by the Joint Secretary. 10. The learned Standing Counsel for the District Level Development Authority,

			Nainital/respondent no. 2, would further submit that, as per the provisions of Section 28-A of the Act, 1973, which contemplate the sealing of unauthorized construction, no prior opportunity of hearing is required to be afforded. He would submit that such a measure can be resorted to as an immediate preventive measure to restrain further unauthorized construction at the spot. Sub-section (1) of Section 28-A of the Uttarakhand Urban and Country Planning and Development Act, 1973, is extracted hereunder for ready reference:- *"28-A.Power to seal unauthorised development: - (1). It shall be lawful for the 1 [Vice Chairman of the concerned Local Development Authority/ Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act] or an officer empowered by him in the behalf, as the case may be, at any time before or after making an order for the removal or discontinuance of any development under Section 27 or Section 28 to make any order directing the sealing of such development in a development area in such manner as may be prescribed for the purposes of carrying out the provisions of this Act."* The provisions of the said Section are not prejudicial to the interests of any stakeholder. 11. He would further submit that the particular provision of sealing is only one of the measures preceding the further proceedings for demolition and other action as contemplated under Sections 27 and 28 of the Act, 1973. 12. The copy of written instructions viz. the sealing memo and the written instructions as have been submitted by the learned standing counsel for the respondent no. 2 in the Court are

			taken on record. 13. After having heard the learned counsel for the parties and after going through the record, the provisions of Section 28-A(1) of the Act, 1973, are very relevant. A bare perusal of the said sub-section would reveal that though it empowers sealing of any illegal construction that is found, however, such a sealing cannot be made without any prior order. A bare perusal of the sealing memo dated 04.11.2026 in the present case reveals that the Junior Engineer of the District Level Development Authority has sealed the premises of the petitioner on 04.11.2026 and the same has been seen and approved thereafter by the Joint Secretary of the District Level Development Authority. Such an order which appears to be in the nature of a post-facto order is clearly against the provisions of Section 28(1) of the Act, 1973, as any action of sealing can only be after an order is passed and it cannot be vice versa. 14. In the present case, it appears that the initial sealing action was carried out by the Junior Engineer on the spot, and only thereafter such an action was ratified by a post facto order passed by the Joint Secretary of the District Level Development Authority. 15. In such view of the matter, the action taken by the District Level Development Authority cannot be sustained. However, it must also be borne in mind that the petitioner cannot be permitted to raise any further construction under the garb of this Court's order. Therefore, in order

			to balance the equities, it is provided that the seal placed on the petitioner's premises shall be removed forthwith and, in any case, within 24 working hours. However, learned counsel for the petitioner, on instructions, undertakes on behalf of the petitioner that no further construction shall be raised by the petitioner. It is further provided that, in the event of the petitioner raises any further construction, it shall be open to the District Level Development Authority to pass a fresh order and initiate sealing proceedings forthwith. 16. It is also made clear that it shall be open to the District Level Development Authority to assess the alleged illegal construction raised by the petitioner and proceed further in accordance with law. 17. Accordingly, the present Writ Petition is hereby allowed. **(Siddhartha Sah, J.)** 06-11-2026 Akash