HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 12063/2026
CNR: RJHC020662572026 | URN: CW / 26635U / 2026

1. Smt. Rajni Bajaj W/o Shri Rajeev Kumar Jain, Aged About 48 Years, R/o Radha Bihari Road Dholpur Tehsil And District Dholpur Rajasthan
2. Smt. Priyanka Jain, W/o Shri Rahul Dev Jain, Aged About 38 Years, R/o R/o Radha Bihari Road Dholpur Tehsil And District Dholpur Rajasthan

----Petitioners

Versus

1. State of Rajasthan through Principal Secretary, Local Self Government Department, Government Secretariat, Jaipur.
2. Director and Special Secretary, Local Self Government Department, Rajasthan, Jaipur.
3. District Collector, Dholpur
4. Commissioner, Municipal Council, Dholpur, Rajasthan.
5. Shri Vishnu Parmar, presently posted as Commissioner, Municipal Council, Dholpur, Rajasthan, in his personal capacity and by name

----Respondents

Connected With

S.B. Civil Writ Petition No. 2926/2026
CNR: RJHC020143682026 | URN: CW / 6403U / 2026

1. Smt. Rajni Bajaj W/o Shri Rajeev Kumar Jain, Aged About 48 Years, R/o Radha Bihari Road, Dholpur Tehsil And District Dholpur Raj.
2. Smt. Priyanka Jain W/o Shri Rahul Dev Jain, Aged About 38 Years, R/o R/o Radha Bihari Road, Dholpur Tehsil And District Dholpur Raj.

----Petitioners

Versus

1. The Commissioner/ Executive Officer, Municipal Council, Dholpur, Rajasthan.
2. The District Collector, Dholpur.

----Respondents

S.B. Civil Writ Petition No. 4618/2026

CNR: RJHC020233552026 | URN: CW / 10170U / 2026

1. Smt. Rajni Bajaj W/o Shri Rajeev Kumar Jain, Aged About 48 Years, R/o Radha Bihari Road Dholpur Tehsil And District Dholpur Raj.
2. Smt. Priyanka Jain, W/o Shri Rahul Dev Jain, Aged About 38 Years, R/o R/o Radha Bihari Road Dholpur Tehsil And District Dholpur Raj.

----Petitioners

Versus

1. Munciapal Council, through its Executive Officer, Dholpur
2. The District Collector, Dholpur.
3. Karmveer Singh, Sub-Divisional Officer(Additional Charge: Commissioner), Nagar Parishad, Dholpur.

----Respondents

For Petitioner(s)	:	Mr. Punit Singhvi with Mr. Sumit Kumar Jain & Mr. Ajay S. Rathore
For Respondent(s)	:	Mr. S.K. Gupta, Sr. Adv. assisted by Ms. Surabhi Agarwal

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HON'BLE MR. JUSTICE SAMEER JAIN

Judgment

1	Arguments concluded on	14.10.2026
2	Judgment reserved on	14.10.2026
3	Full judgment or operative part pronounced	Full Judgment
4	Pronounced on	30/10/2026

1. In the present batch of writ petitions, the scope of the controversy involved, albeit not limited to, is broadly and predominantly defined by the challenge raised regarding the impugned order dated 11.07.2026 passed by respondent No.4-Commissioner, Municipal Council Dholpur, whereby the petitioners

were directed to vacate the premises within 24 hours owing to the continuous and unabated illegal construction.

2. Consequently, considering the fact that the present batch of writ petitions warrants adjudication on common questions of law and fact; with the consent of learned counsel appearing on behalf of all the parties, **S.B. Civil Writ Petition No. 12063/2026** titled **Smt. Rajni Bajaj & Anr. vs. State of Rajasthan & Ors.** is being taken up as the lead petition. It is cautiously clarified that any discrepancies in the present batch of writ petitions pertain purely to the factual narratives contained therein and not *vis-a-vis* the questions of law to be determined by this Court; the instant judgment shall be applicable to the petitions connected herein on *mutatis mutandis* basis.

FACTUAL MATRIX OF THE LIS AT HAND:

3. The factual matrix culminating in the present adjudication is exhaustively delineated as under:

3.1 The petitioners were issued a Reconstitution Certificate on 04.05.2023 (Annexure-3), which was subsequently followed by a Construction Sanction Order dated 17.07.2023 (Annexure-4) issued by the respondent-Municipal Council, Dholpur for construction of their residential house. The said statutory sanction order categorically and mandatorily required the petitioners to leave a 10-foot front set-back and 10-foot side set-backs during the construction.

3.2 In blatant disregard of the aforementioned sanction, the petitioners undertook construction activity. Consequently, in light

of the General Public Notice dated 17.12.2024 (Annexure-7), the Municipal Council issued a Seizure Memo on 11.01.2025 (Annexure-6) against the illegal construction.

3.3 Adverting to the record, the petitioners subsequently submitted a checklist and an affidavit on 07.10.2025 (Annexure-8). In the said affidavit, the petitioners expressly admitted to the illegal construction over the mandated set-backs and provided an unequivocal undertaking to remove the said illegal construction within a period of 60 days from the date of such undertaking. To corroborate the said intent, the petitioners deposited a sum of Rs. 8,370/- as security money.

3.4 Based on the said undertaking, the Directorate of Local Self Government, vide order dated 20.11.2025 (Annexure-9), directed the respondent-Municipal Council to de-seal the property in question. Following the order dated 26.02.2026 (Annexure-10) passed by this Court calling for a status report, the respondent-Municipal Council formally de-sealed the said property on the very same day vide its order dated 26.02.2026 (Annexure-11).

3.5 However, vide order dated 06.03.2026 (Annexure-12), the building permission and Construction Sanction Order dated 17.07.2023 was cancelled by the respondent-Council on the specific ground of the property in question being in vicinity of a gas godown, and a subsequent sealing and seizure order dated 06.03.2026 (Annexure-13) came to be passed. Thereafter, this Court, vide an interim order dated 10.03.2026 (Annexure-2), stayed the said seizure and cancellation.

3.6 In the wake of the petitioners' failure to honor the undertaking provided by way of the affidavit dated 07.10.2025, the respondent-Municipal Council issued a notice dated 29.06.2026 (Annexure-14) for compliance of the said undertaking sworn by the petitioners.

3.7 Subsequently, the petitioners were afforded personal hearing on 10.07.2026. On the same day, a site inspection was conducted, leading to the Site Inspection Report dated 10.07.2026, which glaringly revealed that instead of removing the illegal structure, the petitioners were actively continuing with the construction and finishing work inside the premises.

3.8 As a direct consequence of the continuous violation, the impugned order dated 11.07.2026 (Annexure-1) came to be passed by respondent No.4, granting the petitioners twenty-four hours to vacate the said premises.

SUBMISSIONS BY LEARNED COUNSEL APPEARING ON BEHALF OF THE PETITIONERS:

4. At the outset, learned counsel for the petitioners, Mr. Punit Singhvi and Mr. Sumit Kumar Jain, contended that the impugned order dated 11.07.2026 is arbitrary, sans jurisdiction, and highly disproportionate. To substantiate the petitioners' claim for equitable relief, the following exhaustive grounds were canvassed:

4.1 It was vehemently contended that the petitioners were squarely protected by the interim order dated 10.03.2026 passed by this Court, which categorically stayed the earlier seizure and cancellation orders dated 06.03.2026. Learned counsel asserted

that the impugned order of eviction dated 11.07.2026 was essentially a circumventive tactic adopted by the respondents to overreach the judicial protection granted by this Court.

4.2 It was further averred that the building permission was arbitrarily cancelled vide order dated 06.03.2026 by the respondent-Council on the factually incorrect pretext that the said property is in vicinity of a gas godown. It was submitted that the said action was taken without adhering to the principles of natural justice, and also the foundation of the subsequent punitive actions was inherently flawed.

4.3 Learned counsel relied upon the Model Rajasthan Building Regulations, 2025 (hereinafter referred to as the 'Building Regulations of 2025'), arguing that the construction parameters and set-back requirements ought to be governed by this updated legal framework. It was pleaded that the Building Regulations of 2025 have the effect of regularizing the petitioners' construction, and the respondents erred in not applying the said regulations to cure any alleged technical irregularities.

4.4 Moreover, learned counsel for the petitioners raised a robust plea of parity under Article 14 of the Constitution of India, contending that numerous other structures and buildings in the immediate vicinity were operating with similar architectural deviations and without strict adherence to set-back norms. It was urged that the Municipal Council deliberately targeted the petitioners with a vindictive pick-and-choose approach, whereas

similarly situated violators were completely spared from such drastic eviction orders.

4.5 Lastly, it was submitted that the directive to vacate the premises within a meager span of twenty-four hours is a draconian measure that severely violates the principles of natural justice and reasonableness.

SUBMISSIONS BY LEARNED COUNSEL APPEARING ON BEHALF OF THE RESPONDENTS:

5. *Per contra*, learned Senior Counsel, Mr. S.K. Gupta, appearing on behalf of the respondents, along with learned counsel, Ms. Surabhi Agarwal, vehemently opposed the present writ petitions and prayed for their summary dismissal. To substantiate the same, the following exhaustive grounds were canvassed, which are meticulously recorded hereinbelow:

5.1 It was stoutly contended that the construction of the property in question was never carried out by the petitioners in accordance with the building construction permissions, nor was the map attached (Annexure-R-5/1) with the Construction Sanction Order dated 17.07.2023 adhered to by the petitioners. It was submitted that the sanction order mandatorily required the petitioners to leave a 10-foot front set-back and 10-foot side set-backs. By brazenly encroaching over these statutory set-backs, the petitioners rendered the entire structure patently illegal, and thus, the same is *void ab initio*.

5.2 Learned counsel placed emphasis on the highly deplorable conduct of the petitioners, asserting that the petitioners have

approached this Court with entirely unclean hands. It was submitted that the petitioners themselves admitted to the illegal construction through their own self-sworn affidavit dated 07.10.2025, wherein they explicitly undertook to remove the illegal construction made on the set-backs within a period of 60 days, and deposited Rs. 8,370/- as security money for the same.

5.3 It was further averred that the Site Inspection Report dated 10.07.2026 (Annexure-R-5/2) unequivocally establishes the petitioners' *mala fides*. It was next submitted that instead of honoring the solemn undertaking to remove the illegal encroachment from the property in question, the petitioners deceitfully utilized the de-sealing of the property to actively continue with the construction and finishing work inside the said premises.

5.4 Learned counsel further submitted that the impugned order dated 11.07.2026 was not an arbitrary exercise of power, but was a detailed and reasoned order issued precisely in the wake of the deliberate continuance of the illegal construction and the total non-compliance of the affidavit dated 07.10.2025 by the petitioners, and the same was issued strictly in light of the order dated 14.07.2022 (Annexure-R-5/3) issued by the Director of Local Bodies.

5.5 Countering the petitioners' reliance on the regulatory framework, it was emphatically submitted that the Building Regulations of 2025 cannot, under any circumstance, be made applicable to the Construction Sanction Order passed in the year

2023. It was contended that an illegality committed at the inception in direct defiance of the then-prevailing law cannot be miraculously regularized by claiming retrospective application of the subsequent regulations.

5.6 Lastly, obliterating the petitioners' claim of parity, the learned counsel for the respondents contended that there exists no concept of negative equality in law. It was asserted that the petitioners cannot seek the protection of Article 14 of the Constitution of India to perpetuate an illegality merely because action may not have yet been initiated against other violators.

DISCUSSION AND FINDINGS:

6. Having heard the rival submissions advanced by the learned counsel for the parties at length and upon an assiduous perusal of the material available on record, including but not limited to the Construction Sanction Order dated 17.07.2023, the petitioners' own affidavit dated 07.10.2025, and the site inspection report dated 10.07.2026, and considering the fact that the present adjudication necessitates a delicate balancing act to ensure that the extraordinary equitable jurisdiction of this Court is not weaponized by unscrupulous litigants to perpetuate an illegality or bypass their own sworn undertakings, this Court has formulated the following views.

7. This Court observes that it is a well-settled proposition of law that a litigant invoking the extraordinary, equitable, and discretionary writ jurisdiction of this Court under Article 226 of the Constitution of India must approach the Court with clean hands.

The material available on record demonstrates that the petitioners actively concealed their own continuous wrongdoings. The petitioners submitted a self-certified affidavit undertaking to remove the illegal construction within 60 days, deposited security money for the same, yet deceitfully utilized the intervening period to actively advance the construction and finishing work. Such deplorable conduct is a blatant abuse of process and disentitles the petitioners to any equitable relief.

8. This Court is of the considered view that the petitioners were mandatorily required to leave a 10-foot front set-back and 10-foot side set-backs. The deliberate encroachment upon the said set-backs is a brazen violation of municipal bye-laws. The site inspection report dated 10.07.2026 leaves no room for doubt that the petitioners, instead of rectifying the illegality as sworn in their own affidavit, proceeded to compound it.

9. This Court notes that the reliance placed by the petitioners on the Building Regulations of 2025 is wholly misplaced and legally untenable. A statutory sanction order passed in the year 2023 is strictly governed by the regulations in force at that relevant point in time. A subsequent regulatory framework enacted in 2025 cannot be applied with retrospective effect to breathe life into an action that was *ab initio void* and carried out in direct defiance of the contemporary sanction order.

10. This Court is of the considered opinion that so far as the plea of discrimination and parity under Article 14 of the Constitution of India is concerned, the same is entirely devoid of merit. It is trite

law that the principle of equality enshrined under Article 14 is a positive concept and cannot be invoked to perpetuate an illegality or irregularity. If certain similarly placed persons are also operating in violation of municipal laws, the same would not confer a right upon the petitioners to claim parity in illegality. In the said context, it is apposite to rely upon the dictum enunciated by the Hon'ble Supreme Court in **Secretary, Jaipur Development Authority v. Daulat Mal Jain, (1997) 1 SCC 35,** wherein it was categorically held that Article 14 does not envisage negative equality, and no negative equity can be claimed to perpetuate an illegal or unauthorized act. This Court is of the view that a construction which permits one to take advantage of one's own wrong cannot be protected by the shield of Article 14 as enshrined under Constitution of India.

11. This Court further observes that the doctrine of *audi alteram partem* was duly satisfied by the respondents, as a specific notice for compliance was issued on 29.06.2026, followed by a personal hearing on 10.07.2026. The impugned order dated 11.07.2026 is a reasoned and detailed order passed directly owing to the petitioners' own failure to abide by their undertaking and the continuous nature of the illegal construction. The petitioners cannot be allowed to take shelter under an earlier interim order of this Court to perpetually violate the law, bypass their own sworn affidavit, and weaponize the judicial process to shield their *mala fide* actions.

CONCLUSION:

12. Operating as the *sentinel on the qui vive* (watchful guardian of the Constitution), this Court cannot remain a mute spectator to the alarming and systematic violation of municipal bye-laws, particularly the brazen continuation of illegal constructions under the garb of judicial pendency.

13. In view of the foregoing discussion and findings, this Court is of the considered view that the petitioners have failed to establish any illegality, arbitrariness, or procedural irregularity in the action adopted by the respondents. The respondents have acted strictly in accordance with law, and specifically the order dated 14.07.2022 passed by the Director of Local Bodies, to curb a continuous and deliberate illegal construction and the impugned order dated 11.07.2026 is rightly passed by the respondents owing to the petitioners' own failure to abide by their undertaking and the continuous nature of the illegal construction over the property in question.

14. Consequently, the respondent-Municipal Council is hereby at liberty to proceed with the removal and demolition of the illegal construction raised over the setbacks, contrary to the Construction Sanction Order dated 17.07.2023, if any exist as on date, strictly in accordance with law.

15. Moreover, the petitioners are directed to ensure that no further unauthorized constructions or developmental activities are undertaken by the petitioners on the property in question in defiance of the municipal permissions, sanctions, and bye-laws.

16. Consequent to the dismissal of the present batch of writ petitions, all interim orders passed by this Court in the present proceedings, including the order dated 10.03.2026, shall stand vacated forthwith.

17. Accordingly, the present batch of writ petitions, being bereft of any merit, stands dismissed. Pending applications, if any, shall stand disposed of. No order as to costs.

(SAMEER JAIN),J

14-16-JKP(SA)