

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

OWP No. 122/2002

Adm. Jammu Municipality & Anr

.....Petitioner(s)

Through: Mr. Mayank Gupta, Advocate

Vs

Surat Singh & Anr

..... Respondent(s)

Through: Mr. Rahul Pant, Sr. Advocate with
Mr. Anirudh Sharma, Advocate

Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER
(02.07.2026)

- 01.** The present writ petition has a chequered history spanning over more than three decades. The controversy traces its origin to proceedings initiated by the Municipal authorities in relation to the hotel premises of respondent No.1, culminating in the order dated 18.06.2001 passed by the Jammu and Kashmir Special Tribunal, which is the subject matter of challenge in the present writ petition. Feeling aggrieved of the aforesaid order, the petitioners have preferred the present writ petition, which has remained pending before this Court for a considerable period of time.
- 02.** During the course of hearing of the present petition, learned Senior Counsel appearing on behalf of respondent No.1 consistently maintained that respondent No.1 had been subjected to a discriminatory exercise of statutory powers by the Municipal authorities. It was urged that while proceedings had been initiated against the establishment of respondent No.1, several similarly situated hotels, banquet halls, coaching centres and other commercial establishments, allegedly suffering from identical or even more serious

deficiencies relating to sanctioned building plans, parking facilities and other statutory compliances, continued to operate without any meaningful action having been taken against them.

- 03.** In order to substantiate the aforesaid plea, respondent No.1 placed reliance upon information obtained under the Right to Information Act, 2005, which, according to respondent No.1, disclosed that a large number of hotels, banquet halls, tuition/coaching centres and other commercial establishments within the municipal limits of Jammu were functioning without sanctioned building plans and/or the mandatory parking facilities prescribed under the applicable Building Bye-laws and statutory regulations. It was further contended that despite such violations, no effective action had been initiated against many of those establishments by the Municipal authorities.
- 04.** The principal grievance projected on behalf of respondent No.1 was that the Municipal authorities had adopted a pick-and-choose policy in the enforcement of the municipal laws by proceeding against respondent No.1 while permitting several similarly situated establishments, allegedly guilty of identical or even more serious violations, to continue to operate without any effective action being taken against them. According to respondent No.1, such selective enforcement not only defeats the very object of the municipal laws but also falls foul of the constitutional mandate of equality enshrined under Article 14 of the Constitution of India.
- 05.** Having regard to the aforesaid contention, this Court considered it appropriate to ascertain whether the allegation of selective enforcement and discriminatory exercise of statutory powers was borne out from the official record. It is in this backdrop that the present proceedings have been taken up

to examine the material placed before this Court and the compliance of the directions subsequently issued by this Court for obtaining complete particulars regarding such similarly situated establishments.

06. Mr. Rahul Pant, learned Senior Counsel appearing on behalf of respondent No.1, has drawn the attention of this Court to the detailed order dated 21.08.2023, whereby respondent No.1 was directed to file a detailed supplementary affidavit highlighting:

- i) The details of all such hotels which do not have parking space;**
- ii) The details of such hotels which do not have sanctioned building plans;**
- iii) The details of such hotels which do not have any parking space or sanctioned building plans, but against whom no action has been taken; and**
- iv) The details of business/commercial establishments, banquet halls and tuition/coaching centres which do not have any parking space available at their premises and whether any action has been taken against such establishments by the respondents**

07. The aforesaid order further reveals that learned Senior Counsel appearing on behalf of respondent No.1 was directed to file the supplementary affidavit in the manner indicated above by furnishing the requisite information within one week, with an advance copy to the learned counsel appearing on behalf of the petitioners, who, in turn, was directed to file a response thereto within one week thereafter positively.

08. Mr. Pant submits that the order dated 21.08.2023 has been complied with by respondent No.1 in its true letter and spirit and that, in compliance thereof, a detailed supplementary affidavit was filed on 20.12.2023

furnishing all the particulars as directed by this Court. This Court has carefully examined the said supplementary affidavit. A perusal thereof reveals that respondent No.1 has furnished area-wise details of hotels which do not have parking facilities, hotels which do not possess sanctioned building plans, as well as hotels which neither have sanctioned building plans nor the requisite parking facilities and against whom no action has been taken by the Municipal Corporation. The said particulars have been specifically reflected in paragraphs 1(i) and 1(ii) of the supplementary affidavit. Besides, respondent No.1 has also furnished the details of business/commercial establishments, banquet halls and tuition/coaching centres which do not have parking facilities at their premises, along with the particulars indicating whether any action has been taken against such establishments by the Municipal Corporation.

- 09.** Upon consideration of the supplementary affidavit and the material placed on record, this Court is of the considered view that the issues highlighted therein are not confined merely to the controversy between the parties but relate to the uniform enforcement of municipal laws governing construction activities, sanctioned building plans, parking requirements and other statutory obligations within the municipal limits of Jammu. The material placed before this Court also raises issues concerning public safety, planned urban development and strict compliance with the statutory provisions regulating construction and use of buildings within the jurisdiction of the Jammu Municipal Corporation.
- 10.** While furnishing the aforesaid particulars, respondent No.1 has specifically stated that the information incorporated in the supplementary affidavit has

been compiled on the basis of information supplied by the Jammu Municipal Corporation under the provisions of the Right to Information Act, 2005. Respondent No.1 has further placed on record details of various business/commercial establishments, banquet halls and tuition/coaching centres where the Jammu Municipal Corporation has compounded violations which, according to respondent No.1, are more serious in nature than the violations alleged against the petitioners in the present proceedings.

- 11.** Mr. Pant has further invited the attention of this Court to the response filed by the petitioners to the aforesaid supplementary affidavit and submits that the same is nothing but an eyewash, inasmuch as the petitioners have failed to furnish a specific and item-wise reply to the particulars set out therein and on the other hand, the petitioners have chosen to file a one-page generalized response stating that notices have been issued to all the establishments mentioned in the supplementary affidavit calling upon them to produce the sanctioned building plans, if any, along with the parking plans within twenty-one days from the date of receipt of the notice. A copy of the draft notice has been placed on record as Annexure-1 to the reply. Rather than responding to the specific averments made in the supplementary affidavit, the petitioners have sought to justify their stand merely on the basis that a common notice has been issued to all such establishments.
- 12.** It was incumbent on the part of the petitioners to have filed a detailed reply to the supplementary affidavit filed by respondent No.1, column-wise giving details of action taken vis-à-vis each business/commercial establishments/ banquet halls/ tuition centers and also the requisite action

taken in which there was no sanction plan or for that matter the parking space. The petitioners on their own have chosen to issue fresh notice to all the parties, when there was no such direction by this Court and instead the Court desired the action taken by the petitioners with respect to each and every business/commercial establishments/ banquet halls/ tuition centers, where there was any deficiency, whether it pertained to sanction plan or for that matter the parking space. Although, there was no such specific direction by this Court to issue fresh notice to the defaulters, yet a duty was cast upon the petitioners to have apprised this Court with respect to the action taken in pursuant to the fresh notice issued by the petitioners which has been placed on record along with the reply filed by the petitioners to such supplementary affidavit.

13. The record reveals that the notice has been issued to all the parties way back on 20.05.2024 and more than two years have lapsed since then and till date, there is nothing on record justifying the action taken by the petitioners in furtherance of the said notice. Merely issuance of notice on 20.05.2024 by the petitioners on their own does not suffice that the order passed by this Court mentioned supra stands complied with in its letter and spirit, when no consequential action has been taken by the respondents or if taken, the said information has been kept as a guarded secret and not provided to this Court.
14. In these circumstances, this Court deems it appropriate to direct the Commissioner, Jammu Municipal Corporation, to file a fresh and comprehensive affidavit responding to the supplementary affidavit filed by respondent No.1 by furnishing the details of the action taken in pursuance

of the notices issued to each defaulting establishment, area-wise and in the same manner in which the particulars have been furnished in the supplementary affidavit.

15. Accordingly, the Commissioner, Jammu Municipal Corporation, shall file a comprehensive affidavit indicating:

- a) **The total number of hotels, commercial establishments, coaching institutes and similarly situated buildings functioning within the jurisdiction of the Jammu Municipal Corporation.**
- b) **The number of such establishments which have been granted building permission and occupancy/completion certificate in accordance with law.**
- c) **The number of establishments found to have raised construction in deviation from, or without, any sanctioned building plan, specifying the nature and extent of such deviations.**
- d) **The number of establishments which do not possess the mandatory parking facilities as required under the applicable Building Bye-laws, the Master Plan and other statutory regulations.**
- e) **The number of establishments functioning without the requisite Fire Safety Clearance/No Objection Certificate from the competent Fire and Emergency Services Department or whose fire safety installations are deficient.**
- f) **Whether periodic inspections are undertaken by the Jammu Municipal Corporation and other competent authorities to ensure compliance with municipal laws, building regulations and fire safety norms, and the mechanism adopted for carrying out such inspections.**
- g) **The action already taken against the defaulting establishments, including issuance of notices, sealing, demolition, prosecution, cancellation of permissions or any**

other coercive measures contemplated under law.

- 16.** The Commissioner, Jammu Municipal Corporation, shall further place on record a time-bound action plan indicating the measures proposed to be adopted for ensuring compliance with the statutory provisions by all such establishments functioning within its jurisdiction.
- 17.** In the meantime, the Commissioner, Jammu Municipal Corporation, shall undertake a comprehensive survey of all hotels, commercial establishments, coaching institutes and other buildings catering to the public within its jurisdiction and identify those establishments which are:
- (i) Functioning without sanctioned building plans or in violation thereof;**
 - (ii) Lacking the mandatory parking facilities prescribed under the applicable laws, Building Bye-laws and other statutory regulations;**
 - (iii) Operating without a valid Fire Safety Clearance/No Objection Certificate or having deficient fire safety measures; and**
 - (iv) Functioning without any other mandatory statutory permission, licence or clearance required under the applicable laws.**
- 18.** Upon completion of the aforesaid exercise, the Commissioner, Jammu Municipal Corporation, shall issue fresh notices, wherever such notices have not already been issued, to all defaulting establishments calling upon them to explain the violations and rectify the deficiencies within the period prescribed under the relevant statutory provisions. In cases where notices have already been issued on 20.05.2024, the Commissioner shall place on record the action taken in pursuance thereof. Thereafter, appropriate

proceedings shall be initiated and concluded strictly in accordance with law against every defaulting establishment, without discrimination, including, wherever warranted, sealing of the premises, demolition of unauthorized constructions, withdrawal of permissions, closure of establishments, prosecution and recovery of penalties or such other action as may be permissible under law.

19. The Commissioner, Jammu Municipal Corporation, shall also coordinate with the Director, Fire and Emergency Services, the Vice Chairman, Jammu Development Authority, the Inspector General of Police (Traffic), and all other concerned departments to ensure effective and coordinated enforcement of the statutory requirements governing building regulations, parking norms and fire safety measures.
20. The affidavit, as directed hereinabove, shall specifically indicate the timeline within which the entire exercise of survey, identification of defaulting establishments, issuance of notices and consequential action is proposed to be completed.
21. Let the aforesaid affidavit be filed by the Commissioner, Jammu Municipal Corporation, within a period of two weeks from today positively. Upon filing of the said affidavit, respondent No.1 shall be at liberty to file a response thereto, if so advised, within one week thereafter.
22. List this matter on **30.07.2026**, on a hearing day, as **Case No. 1**.
23. It is made clear that in the event the aforesaid directions are not complied within the stipulated period, the Commissioner, Jammu Municipal Corporation, shall remain personally present before this Court on the next date of hearing along with the relevant record.

24. Registry shall furnish a copy of this order to the Commissioner, Jammu Municipal Corporation, the Director, Fire and Emergency Services, the Vice Chairman, Jammu Development Authority, and the Inspector General of Police (Traffic) for information and immediate compliance. The Commissioner, Jammu Municipal Corporation, shall also ensure that copies of this order are circulated to all other concerned authorities and stakeholders for strict compliance with the directions contained herein.

(WASIM SADIQ NARGAL)
JUDGE

JAMMU
02.07.2026
Vijay

