Item No.13
Regular List

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

WP(C) No.3467/2023
c/w
WP(C) No.2130/2025

MEHMOODA MIR & ORS.
ROSHAN ARA & ORS.

...PETITIONERS/APPELLANT(S)

Through: - Mr. Shariq J. Reyaz, Advocate (in WP(C) No.3467/2023)
Mr. Faisal Qadiri, Sr. Advocate, with
Mr. Numan Zargar, Advocate (in WP(C) No.2130/2025)

Vs.

UT OF J&K & ORS. ...RESPONDENT(S)

Through: - Mr. Numan Malik, GA.

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER(ORAL)
16.11.2026

1) Through the medium of present order, the afore-titled two writ petitions are proposed to be disposed of.

2) Vide WP(C) No.3467/2023, the petitioners have sought a direction upon respondent No.2 to grant permission in their favour for construction of four number of huts on their land falling under Survey No.1517/648 situated at Laripora, Pahalgam, whereas, vide WP(C) No.2130/2025, the petitioners have assailed corrigendum dated 03.04.2025 issued by Chief Town Planner, Kashmir, rescinding the NOC dated 26.04.2022, with a further direction to the

respondents to process/consider the case of the petitioners for grant of building permission for construction of huts on their land measuring 07 kanals falling under Survey No.1517/648 situated at Laripora, Pahalgam.

3) It appears that the petitioners are owners in possession of land measuring 07 kanals and 11 marlas falling under Khasra No.1517/648 situated at Laripora, Pahalgam. The petitioners intended to raise commercial structure for the purpose of tourism activities on the aforesaid land, therefore, they applied for building permission with the respondents in the year 2012. The requisite NOCs were obtained in the year 2018-19 and submitted to the authorities for grant of building permission. The petitioners, it seems, had approached this Court by way of WP(C) No. 2553/2022 seeking a direction upon the respondents to consider their application for building permission. The said writ petition was disposed of by this Court by extending a direction to the respondents to take a decision on the application of the petitioners within a period of one month.

4) The BOCA, in its 11th meeting, held on 25.07.2020, decided that Executive Engineer, Pahalgam Development Authority (Inspecting Officer, BOCA), will inspect the land and furnish his report/comments with regard to the

conditions laid down in Master Plan, Pahalgam, i.e. angle of repose necessitated by vertical gradient of the area is properly maintained for stability of the area. It was further decided that upon receipt of report and authentication of measures, the case shall be forwarded to Town Planning Organization, Kashmir, for authentication of the plans with regard to adherence of building code and comments thereof.

5) The requisite report was furnished by the Inspecting Officer and it was recommended that the applicants, in addition to average length of 90 feet of the State land, have to provide further 34 feet beyond the State land, thus leaving a corridor of 53 feet from Pahalgam Chandanwari Road for future expansion of PC Road. It was further reported that in the light of the above setback, the applicants have provision of nearly 82 feet of land length where they can raise structure as per the proposal submitted.

6) On 26.04.2022, the Chief Town Planner issued his NOC in favour of the petitioners, wherein it was categorically stated that the site falls between Chandanwari Road and PMGSY Road and its land use is agriculture, but is permitted for tourism use subject to the condition that angle of repose necessitated by vertical gradient is properly maintained. However, on 06.10.2022, the BOCA, in its 13th meeting,

considered the case of the petitioners, but decided that the same cannot be considered due to contrary land use.

7) The petitioners are stated to have approached this Court by way of another writ petition bearing WP(C) No.2553/2022 challenging the non-consideration of their case by the BOCA. However, this Court vide order dated 16.11.2022 observed that because no formal order of rejection has been passed, as such, the respondents were directed to decide the petitioners' case in respect of their claim within a period of one month.

8) It has been submitted that Deputy Commissioner, Anantnag, vide his communication dated 31.12.2022 sought comprehensive details from Chief Town Planner, and in response to the same, the Chief Town Planner, vide his communication/report dated 11.02.2023, reported that changes have been made in the revised Master Plan vis-a-vis the subject site, but the same has not been reflected in the land use plan approved by the Government.

9) It has further been submitted that the respondents, in their objections to WP(C) No.3467/2023, have stated that on 01.02.2024 and 02.02.2024, the BOCA convened its 15th meeting and recommended that the case be forwarded to Law Department through Administrative Department of

Tourism for legal opinion in the matter before consideration in the BOCA. However, the case was placed before the Chief Town Planner for clarification vis-a-vis land use of the site.

10) A number of directions came to be issued in WP(C) No.3647/2023, pursuant to which the Chief Town Planner issued impugned Corrigendum dated 03.04.2025, in terms of which NOC dated 26.04.2022 has been treated as null and void.

11) The issue which has hindered the progress of building permission case of the petitioners is with regard to approved land use of the site of construction. The land belonging to the petitioners is recorded as agricultural land. However, in the Master Plan, it is mentioned that as per the recommendations of the Committee, the area in between Chandanwari Road and Rangward Road, within which the land of the petitioners is situated, is permitted for tourism use up to 25% slope from Pahalgam-Chandanwari Road, subject to condition that angle of repose necessitated by vertical gradient of the area is properly maintained.

12) As already stated, the issue was deliberated upon by BOCA in its 11th meeting held on 25.11.2020, and it was decided that Executive Engineer (Inspecting Officer, BOCA), will inspect the site and furnish his report/comments with

regard to conditions laid down in the Master Plan, Pahalgam, i.e. angle of repose necessitated by vertical gradient of area is properly maintained. The report was received from the Executive Engineer, which was favourable to the petitioners. On the basis of this report, the Chief Town Planner, Kashmir, furnished his NOC vide communication dated 26.04.2022. The case was again considered by the BOCA in its 13th meeting held on 06.10.2022. In the said meeting, it was decided that the case cannot be considered due to contrary land use.

13) The petitioners sought review of BOCA decision, whereafter comments were sought from Chief Town Planner, Kashmir. The said officer, vide his communication dated 11.02.2023, furnished his comments that case of the petitioners was disposed of in terms of NOC dated 26.04.2022 permitting construction of proposed four number of huts on the basis of site specification recommended by the Committee constituted by the Government vide Order No.108-TSM of 2014 dated 05.03.2014 for scrutiny of objections and suggestions and making recommendations for the modification of the draft Master Plan 2032, and it was also reported that the said Committee, being statutory Committee constituted under the provisions of the Development Act, 1970, the

recommendation was incorporated in the Master Plan before its submission to the Government for accord of approval. However, while processing the case of the petitioners, it came to the fore that consequent changes vis-a-vis the subject site, as recommended by the Committee, were not reflected in the land use plan approved by the Government. It was also reported that in such circumstances, the relevant provision of J&K Development Act provides that in case of any contradiction between any map and the written statement, the latter shall prevail.

14) In the aforesaid circumstances, the Chief Executive Officer, Pahalgam Development Authority, vide his communication dated 19.09.2025, recommended to the Administrative Department that opinion be obtained from the Law Department. It seems that the Law Department has now rendered its opinion on 19.11.2025, wherein it has been stated that Section 11-A of the J&K Development Act provides that upon coming into operation of the Master Plan, the land use permitted in the area thereunder shall be governed in terms of the Master Plan. It has also been observed in the opinion of the Law Department that Rule 5(2)(ix) of the J&K Development Authority Rules, 1976, provides that where there is any inconsistency between the

map and the written statement of the Master Plan, the written statement shall prevail.

15) Pursuant to the aforesaid opinion of the Law Department, the Department of Housing and Urban Development has also rendered its opinion by stating that the proposed tourism-related activity is contemplated in the written statement of Pahalgam Master Plan, 2032, and does not appear to be subject to any absolute prohibition under the applicable planning framework and that the case of the petitioners appears fit for favourable consideration by the competent BOCA authorities for grant of building permission for construction of the proposed tourist huts.

16) In the face of aforesaid developments, there seems to be no legal impediment for the respondents to take a fresh decision in regard to grant of permission in favour of the petitioner for construction of huts on their aforesaid land. So far as the withdrawal of NOC by Chief Town Planner vide his impugned corrigendum dated 03.04.2025 is concerned, the same is based upon the fact that there is a contradiction as regards the land use in the map and the written statement of the Master Plan. Since the matter has been clarified by the Law Department as also by the Housing and Urban Development Department, as such, there is no justification

for the Chief Town Planner to withdraw the NOC already granted by him pursuant to the report of inspection issued by the Inspecting Officer. The impugned corrigendum dated 03.04.2025 has lost its significance and is, therefore, liable to be quashed.

17) For what has been discussed hereinbefore, the writ petitions are disposed of by extending the following directions:

(I) Impugned Corrigendum dated 03.04.2025 issued by Chief Town Planner, Kashmir, shall stand quashed.

(II) Respondent BOCA is directed to take a fresh decision on the application for building permission submitted by the petitioners in the light of the opinion tendered by the Law Department and Housing and Urban Development Department.

(III) The needful shall be done by the BOCA most expeditiously, preferably within a period of two months from the date a copy of this order is made available to them.

(Sanjay Dhar)
Judge

SRINAGAR
16.11.2026
"Bhat Altaf-Secretary"

Whether the **Order** is speaking: **YES**
Whether the **Order** is reportable: **YES/NO**