

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

PIL No. 404/2011  
along with connected matters

**Court on its Own Motion**

..... Appellant/petitioner(s)

Through: -  
Mr. M. S. Reshi, Advocate  
Mr. S. N. Ratanpuri, Advocate with Mr. F. A. Lone, Advocate

V/s

**State of J&K and Ors.**

..... Respondent(s)

Through: -  
Mr. Ilyas Nazir Laway, GA

**CORAM:**

**HON'BLE MR JUSTICE SANJEEV KUMAR, JUDGE  
HON'BLE MR JUSTICE PUNEET GUPTA, JUDGE**

**(ORDER)**  
27.03.2023

This Court while taking cognizance of reports of indiscriminate and unauthorized constructions in the Sonamarg Development Area, initiated *Suo moto*- action in public interest and directed the Chief Executive Officer, Sonamarg Development Authority, Regional Wildlife Warden, Kashmir and Divisional Forest Officer (DFO), Sindh, to be added as parties, vide order dated 22<sup>nd</sup> August, 2017. This Court also directed that till further orders no construction activity shall be carried out.

The order dated 22<sup>nd</sup> August, 2017, has been in operation ever since and has not been lifted or vacated by any subsequent order. This order, however, came to be slightly modified by this Court vide order dated 09.05.2018, while considering some applications made by the owners of existing structures, who were seeking to effect repairs/renovations. This Court while making it clear

that there would be no fresh construction activity in the Sonamarg Development Area, provided that the applicants and others may effect repairs/renovations in respect of existing structures, but only after obtaining proper permission from Building Operation Controlling Authority, as indicated in the order dated 9<sup>th</sup> October, 2017. The matter was also considered at length on 22<sup>nd</sup> October, 2020, when this Court took notice of the fact that many of the Hoteliers and others under the shield of the permission obtained for repairs/renovations were raising large scale unauthorized constructions, expansions and even making encroachments. It was also noticed by this Court that some of the applicants were finding the ruse of damage on account of snow or fire etc.

Considering the entire matter and having regard to the similar directions passed in PIL No. 484/2020 on 12<sup>th</sup> October, 2020, this Court directed that in addition to the requirements made in the applicable law, all applications for sanction of building/construction/renovation/repairs in any building shall be accompanied by certain requirements enumerated from (i) to (ix) of para 6 of the order. It appears that this order was mistaken as modification of order dated 22<sup>nd</sup> August, 2017 and under the aforesaid misconception, applications started pouring in for raising new constructions, of course, after obtaining proper permission from the Court.

We have gone through the interim orders passed by this Court from time to time and we are of the considered view that the order dated 22<sup>nd</sup> August, 2017, stopping the fresh constructions in the Sonamarg Development Area, is still in operation and has not been lifted or vacated. The only modification that was made, was in terms of order dated 09.05.2018, whereby the applicants and others were permitted to effect repairs/renovations only in existing

structures, that too, after obtaining proper permission from Building Operation Controlling Authority. The order dated 22<sup>nd</sup> October, 2020, is thus required to be read along with order dated 09.05.2018, in that, what is envisaged in para 6, pertains only to effect repairs/renovations in the existing structures and the order dated 20.10.2022, cannot be construed to be a permission to raise fresh constructions in the Sonamarg Development Area. Even with regard to repairs and renovations in the existing structures in Sonamarg Development Area, this Court vide order dated 28<sup>th</sup> December, 2022, has clearly provided that the applicant would require building permission granted by the BOCA, Sonamarg and approved by this Court.

In view of the aforesaid and having regard to the orders passed by this Court in this PIL from time to time, we make it emphatically clear that there shall be no fresh activity of construction to be carried out in respect of any building or structure in the Sonamarg Development Area irrespective of whether there is any building permission granted for the purpose by any competent authority. Renovation/Repairs permitted by this Court shall be carried out only after obtaining proper building permission from the BOCA, Sonamarg, which is approved by this Court as provided in order dated 28<sup>th</sup> December, 2022. The Chief Executive Officer, shall take immediate steps to stop all fresh constructions in the Sonamarg Development Area.

Status report in terms of order dated 28<sup>th</sup> December, 2022, has been filed by Chief Executive Officer, a perusal whereof indicates that no fresh construction has been undertaken by any person in the Sonamarg Development Area.

We, however, direct the Chief Executive Officer, to ensure that no fresh construction in the Sonamarg Development Area is carried out with or without

permission and in case it is brought to our notice that any fresh construction with or without permission from the competent authority is raised, by anybody in the Sonamarg Development Area, the Chief Executive Officer, Sonamarg Development Authority, shall be personally responsible and shall be proceeded for contempt of this Court.

Mr. Nazir Ilyas Laway, learned GA, has filed compliance report dated 16<sup>th</sup> March, 2023, and has placed on record relevant notification issued by Ministry of Forest and Environment, Government of India. Let a copy of the same be provided to Mr. M. S. Reshi, counsel for the petitioner in WP(C) No. 2229/2021, who shall file his response, if any, by or before the next date of hearing.

Let this matter along with connected petitions come up for consideration on 12<sup>th</sup> May, 2023.

**(PUNEET GUPTA)**  
**JUDGE**

**(SANJEEV KUMAR)**  
**JUDGE**

**SRINAGAR**  
**27.03.2023**

*"Mohammad Yasin Dar"*

