

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

OWP 118/2006 CM(8279/2024) CM(4370/2025).

GHULAM RASOOL ZARGAR AND OTHERS

.....Petitioner(s)

Through:

*Mr. M. I. Qadiri, Sr. Adv. with
Mr. Irshad Mohi ud Din, Adv.*

Versus

STATE GOVT OF J AND K OTHERS.

.....Respondent(s)

Through:

Mr. Bikramdeep Singh, Dy. AG

CORAM:

HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER

26.11.2025

1. The instant writ petition has remained pending before this Court for more than nineteen years. The record reveals that vide order dated 23.05.2024, this Court granted time to the erstwhile counsel, Mr. Moomin Khan, to file an updated status report in respect of the premises being used for commercial purposes. However, despite availing repeated opportunities, no updated status report was filed. The record further demonstrates that, vide order dated 16.10.2024, two weeks' last and final opportunity was granted to Respondents 4 and 5 to file the updated status report, failing which Respondent No. 4 was directed to remain present in person on the next date of hearing.

2. When the matter came up before this Court on 18.11.2024, neither the updated status report was filed by Respondents 4 and 5 nor was Respondent No. 4 present in person. Consequently, this Court was constrained to issue bailable warrants in the tune of Rs.10, 000/- to secure the presence of Respondent No. 4, to be executed by the concerned Senior Superintendent of Police.
3. Thereafter, the matter was taken up on 24.12.2024, on which date the Commissioner, Srinagar Municipal Corporation (SMC), was present in person and submitted that the SMC was in the process of taking action qua the violations in the area and, for that purpose, had constituted a committee. The Commissioner, who has appeared in person, was directed to submit the report by the next date of hearing. However, the said order dated 24.12.2024 was not complied with. Instead, Mr. BikramdeepSingh, learned Dy. AG, sought one week's further time to place on record the final compliance, failing which, Commissioner, Srinagar Municipal Corporation was directed to appear before the Court through virtual mode. The said prayer was accepted by the Court.
4. Again, when the matter was listed on 31.05.2025, Respondent No. 4 was present virtually. The record reveals that the order dated 06.05.2025 had not been complied with. However, Mr. Bikramdeep Singh, learned Dy. AG, submitted that he has received the report on 31.05.2025

itself and prayed for one day's further time to file the same, which request was granted.

5. Pursuant thereto, a fresh application (CM No. 4370/2025) was filed for bringing on record the report of the Committee constituted vide Order No. 1307 of 2024 dated 21.12.2024, which application was allowed vide order dated 21.07.2025 by this court.
6. The record reveals that the respondents have filed a fresh application which has been registered as CM No.4370/2025, seeking permission of this court for taking on record the report submitted by the constituted committee of Municipal Corporation. The Court has taken a serious objection while perusing para-3 of the said application in which the respondents have pleaded that the petitioners have managed to get the status quo order from this court regarding the said illegal barricades in the area of Balgarden, Karan Nagar Srinagar. The specific averment of the respondent to that extent is highly objectionable and when Mr. Bikramdeep Singh, learned Dy. AG was confronted with the said averment, which is highly objectionable, has withdrawn the same unconditionally. In light of the statement so made the averment in para-3 in the said application is withdrawn, however, the respondent is cautioned to remain careful in future.

7. I have gone through the report submitted by the Committee constituted in terms of Order No. 1307 of 2024 dated 21.12.2024. The Committee was constituted by the Commissioner, SMC, to conduct a comprehensive survey of the Bal-Garden area regarding residential houses converted into commercial establishments and to submit its findings. The composition of the Committee has been reproduced as under:

Composition of Committee:

1. *Joint Commissioner (planning), SMC*
2. *Chief Enforcement Officer, SMC*
3. *Chief Anti-Encroachment Officer, SMC*
4. *Enforcement Officer (Concerned), SMC*
5. *Ward Officer, Ward No. 22, SMC*

8. The report reveals that field visits were conducted by officials from the Town Planning, Enforcement, Anti-Encroachment Wings along with the Field Staff of Ward No. 22, excluding the main roads. During the field survey, the team sought records relating to building permits and surveys of occupancy from the local building owners/occupants. However, as per the report, the owners failed to provide the same. The survey was accordingly conducted in respect of the properties located within the boundaries delineated in the Google Earth extract appended to the report.

9. Based on the field survey, 54 structures were identified and listed by the field team, the particulars of which have been detailed in the report. Photographic evidence, i.e.,

geo-tag photos of these structures, has been annexed as Annexure-A. Thereafter, the Committee has recorded its findings, which stand reproduced as under:-

Findings of the Committee:-

“The preliminary analysis of the listed structures reveals several instances of change of land use and zoning building regulations, violation of building permissions (if any) in the area etc. The Committee observes that because of unauthorized building use conversions, the area has witnessed little increase of commercial activity and on street parking which results some strain on local infrastructure and community as well. The problem is further aggregated by day time parking of vehicles parked by the people working in the nearby offices and the commercial establishments existing along the main road in an around the Balgarden area.

- 1. Strict Enforcement:** *Directions need to be issued to the concerned to ensure effective enforcement of building permissions, compliance to land use zoning and prevention of further unauthorized building use conversions in the area.*
- 2. Review of structure:** *Structure enlisted by the Committee need to be reviewed on case-to-case bases in terms of land use policy and other provisions of the Master Plan Srinagar - 2035 and the JKUBBL-2021. The structure which are found non-compliant in terms of the provisions contained in the Master Plan Srinagar -2035 and the JKUBBL-2021 shall be dealt with as per provisions of the J&K Municipal Corporation Act, 2000.*
- 3. Infrastructure Development:** *Steps need to be taken for proper provisioning of infrastructure to address the impact of building use conversions on local streets, utilities and services.*
- 4. Community engagements:** *The concerned authority shall engage with local stakeholders to raise awareness about the importance of compliance with land use zoning and other regulations and its impact on quality of living in the neighbourhood.*

Besides, the Committee observes that one of the key issues faced by the locals is obstruction of inner access lanes due to unauthorized parking encroaching on private driveways and community spaces. The locals often get frustrated by blocked entry/exits resulted because of idle parking by visitors to local commercial shops and officials working in the nearby area which at time result in disruption to movement of emergency vehicles and essential community services.

- 1. Designated visitor Parking Zones in the area.*
- 2. Convert underutilized spaces near the main road into short-term parking for commercial visitors.*
- 3. Implement paid parking to discourage all-day occupancy.*
- 4. Restrict inner-lane parking to residents via permit systems (e.g., stickers or digital permits).*
- 5. Deploy traffic wardens to monitor violations and issue fines.*
- 6. Install CCTV cameras to deter illegal parking inside residential area.*
- 7. Place clear signage indicating parking rules, tow-away zones, and permit-only areas.*
- 8. Encourage businesses to provide off-site parking or shuttle services for customers.”*

10. While submitting the report, the Committee described it as preliminary in nature on the ground that it was not comprehensive owing to certain limitations, which limitations have been reflected in the said report. For facility of reference, the same is reproduced as under:

“1. Lack of Cooperation shown by the Owners/Occupants: During field visits, it has been observed that the local building owners/occupants when approached by and instead evaded the teams by citing frivolous reasons.

2. Unauthenticated particulars: Apart from non-sharing of building permission particulars, the committee is of the opinion that the owner particulars recorded in the list above shall not be treated as authentic and instead require proper verification.

3. In the context of limitations stated above, the committee recommends that this preliminary report which is under submission needs to be further improved and refined after verification of owner particulars and validation of Building Permissions as per the records.”

11. Upon analyzing the said report, the Committee recorded its conclusions as under:

Conclusions:

“The unchecked and unauthorised commercialization of Balgarden area of Karan Nagar reflects broader enforcement challenges in Srinagar. The report RevealsSeveralinstances of non-compliance and violations of building permissionshighlighting the need for stricter enforcement, accountability, internal coordination betweenenforcement and planning wings of SMC and community engagement. The Parking crisis in Balgarden demands urgent intervention to restore residents, peace and safetyA combination of strategic planning, enforcement, community engagement and legalaction are viewed as potential tools address the issue whileAllowing Localbusinessesalong main road which are envisaged as mixed use corridors in the Master Plan Srinagar-2035. Immediate action in terms of robust and watchful enforcement is recommended to preventtheviolations and unauthorised conversions in the area.”

12. A perusal of the report indicates that the Committee was constituted for the sole purpose of conducting a comprehensive survey of the Bal-Garden area regarding residential houses converted into commercial establishments and to submit its findings. The order passed by this Court dated 24.12.2024 also reflects that the Commissioner, SMC, had informed the Court in

person that the Committee had been constituted with that objective.

13. From a cumulative reading of the orders passed by this Court from time to time and the statement made by the Commissioner, it was incumbent on part of the Members of the Committee to have given a comprehensive report instead of preliminary report on the violations in the area.
14. Surprisingly, while submitting detailed findings identifying several instances of change of landuse zoning/building regulation violations, and violations of building permissions, along with acknowledgment of adverse consequences such as increased commercial activity, unauthorized day-time parking and resultant strain on infrastructure and community spaces, the Committee has nonetheless categorized the report as preliminary, perhaps for the reason to gain time to implement the recommendations of the said Committee.
15. In light of the findings recorded by the Committee, strict enforcement directions were required to be issued to ensure implementation vis-à-vis violations of building permissions, landuse zoning, and further unauthorized conversions in the area.
16. It was further obligatory on part of the Municipal Corporation to review each structure listed by the Committee on a case-to-case basis strictly in accordance with the landuse policy, Master Plan Srinagar-2035 and JKUBBL-2021. Having admitted the violations, the

Corporation was obligated to take action against the structures which were found non-compliant under the provisions of the J&K Municipal Corporation Act, 2000, Master Plan Srinagar-2035 and JKUBBL-2021.

17. The Municipal Corporation and Enforcement Agencies were also duty-bound to adopt reformatory measures ensuring adequate provisioning of infrastructure to mitigate the impact of unauthorized conversions on local streets, utilities and services.

18. In addition, the concerned authorities should have engaged with local stakeholders to raise awareness about the importance of compliance with land use, zoning and other regulations and its impact on quality of living in the neighbourhood. The Committee has also given recommendations on unauthorized parking encroachments on private and community spaces and proposed corrective measures in the report.

19. This Court after perusing the report in its entirety and the detailed findings recorded, is of the view that Committee could not have categorized the said report as preliminary, which is comprehensive in nature. It seems to have been done by the respondents with a view to evade responsibility to implement the said findings by taking measures in conformity with the same. In the considered view of this Court, the report is comprehensive in nature as it identifies the violations and specifies the necessary corrective measures as well.

20. The Committee has further recorded that the unchecked and unauthorized commercialization of the Bal-Garden area reflects broader enforcement challenges across Srinagar. The report clearly establishes multiple instances of non-compliance and violation of building permissions requiring strict enforcement, institutional accountability, internal coordination between relevant wings of the SMC and community engagement. The parking crisis, all of which demand urgent intervention to restore the resident's peace and safety.

21. Therefore, this Court is of the considered view that, in light of the Committee's findings and conclusion drawn, the respondents were required to initiate strategic planning, enforcement, community engagement and legal action against the defaulters allowing the local business along main road which are envisaged as mixed-use corridors envisaged under Master Plan Srinagar-2035. The committee has concluded that immediate action in terms of robust and watchful enforcement is recommended to prevent violations and conversions in the area.

22. The court after having examined the comprehensive report is of the considered view that merely giving findings and conclusions could not have sufficed the purpose of constituting the said committee unless the recommendations are implemented on ground and strict measures are taken with a view to curb such violations and the guilty are brought to book. Otherwise the very

purpose of constituting the said committee or giving recommendations is a futile exercise.

23. Accordingly, this court deems it proper to direct the respondents to submit a detailed action-plan in the form of supplementary affidavit within two weeks strictly in terms of the findings and conclusions contained in the Committee's report, which for all practical purposes stands treated as a comprehensive report.

24. Let a detailed supplementary affidavit be filed within two weeks in the form of an action-plan demonstrating the steps proposed to implement the Committee's recommendations so as to curb unauthorized conversions, violations and illegal parking in the said area.

25. A copy of the supplementary affidavit shall be furnished in advance to learned counsel for the petitioner, who may file response thereto within two weeks thereafter, if need arises.

26. Before parting, this Court deems it appropriate to direct the Chief Secretary to constitute a Committee headed by Srinagar Municipal Commissioner and other senior officers to fix responsibility upon all officials of the Municipal Corporation who were at the helm of affairs at the time when such constructions and violations took place. The Committee shall identify the officials responsible, so that accountability is duly fastened upon any such erring officer under whose domain such

violations have taken place. Let the said report be submitted on or before the next date of hearing..

27. Heard in part.

28. List for continuation on 26th December, 2025.

29. Copy of this order be provided to the learned counsel for the parties under the seal and signature of Joint Registrar cum Bench Secretary.

(WASIM SADIQ NARGAL)
JUDGE

Srinagar
26.11.2025
Sakeena-PS

