

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

(VIDEO CONFERENCE)

EMG-CM No.31-A/2020

EMG-CM No.32-A/2020

EMG-WP(C) No.37-2020

Mohammad Shafi Tramboo

...Petitioner(s)/Appellants

Through: Mr. Nissar Ahmad, Advocate (through whatsapp call
from his residence)

V/s

Govt. of J&K & Ors.

...Respondents

Through:

CORAM: Hon'ble Mr Justice Dhiraj Singh Thakur, Judge.

(ORDER)

13.05.2020

EMG-CM No.31-A/2020

Application is allowed. Affixation/deposition of court fee, for the time being is dispensed with. The petitioner shall do the needful after the opening of lockdown.

EMG-WP(C) No.37-2020

EMG-CM No.32-A/2020

Petitioner challenges the order dated 7th of January, 2020, to the extent it orders the sealing of building of the petitioner situated at Durga Nag, Srinagar.

Learned counsel for the petitioner urged that the Divisional Commissioner had no authority under the Municipal Corporation Act to order such a sealing and the same could be done only by the authorities under the Act and further that the order has been passed without affording the petitioner an opportunity of being heard. It was thus urged that the order impugned was in gross violation of principles of natural justice.

In a similar case where same order came under challenge in WP(C) No.329/2020, this Court had passed the following order on 11.02.2020:

“It is order that till next date of hearing, operation of the impugned order dated 07.01.2020 shall remain stayed.

Notwithstanding the above, by staying the order impugned, this Court does not at all condone the violations which might have been committed by the petitioners during the course of construction of the building in question. The Commissioner, Municipal Corporation, Srinagar, is, accordingly, directed to furnish a detailed report highlighting whether there has been any violation, either of building permission or the building bylaws as were applicable including whether the requisite setbacks and the floor ratio areas etc. had been maintained. In case commissioner, Municipal Corporation, Srinagar, comes to a conclusion that there had been violation committed by the petitioners, he shall take requisite steps in accordance with the law to remove such violations.”

Since the order impugned is common in both the petitions, therefore, order passed on 11th of February, 2020, in the aforementioned petition i.e. WP(C) No.329/2020, shall apply on same terms in the present case as well.

List along with WP(C) No.329/2020 on 29th of June, 2020.

SD/-
(Dhiraj Singh Thakur)
Judge

Srinagar
13.05.2020
“Bhat Altaf, PS”