

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

(THROUGH VIRTUAL MODE)

WP(C) No.897/2020

CM No.1986/2020

CM No.1987/2020

Vikas Dhar

...Petitioner(s)

Through: Mr. Hakim Suhail Ishtiaq, Advocate.

Vs.

Union Territory of J&K & Ors.

...Respondent(s)

Through:

CORAM:

Hon'ble Mr. Justice Sanjay Dhar, Judge

(On Video Conference from residence at Jammu)

(ORDER)

08.06.2020

1. Learned counsel for the petitioner has contended that the petitioner was granted a building permission for raising construction of five storied commercial building at Shivpora, Srinagar, vide order No.CB/208/L&B/Shivpora / 168/325 dated 22.05.2018. It is averred that the petitioner started construction of the building in accordance with the permission in the month of November, 2018 and the building is still under construction.

2. It has also been averred that vide order No.CB/208/L&B/328/Shivpora/168/55 dated 03.06.2020, issued by respondent No.6, petitioner has been directed to stop the construction activities, on the ground that the period of building permission has lapsed on 21st of May, 2020

3. Learned counsel has brought to my notice the provisions of Section 243 of the Cantonment Act, 2006 (for brevity, the Act), which provide that the sanction for erection of building is available for two years and the construction of the building has to begin within this period. According to learned counsel, the law does not provide that the construction has to be completed within a period of two years from the date of the sanction but it only provides for beginning of construction within the aforesaid said period but

Respondent No.6 has, while issuing the impugned order, misinterpreted the provisions of Section 243 of the Act by holding that the sanction has lapsed after the expiry of two years from the date of its issuance. Prima-facie, there appears to be merit in the submission of learned counsel for the petitioner.

4. Issue notice to the respondent through *e-mail*. Meanwhile, subject to objections and till next date before the Bench, the impugned order bearing No.CB/208/L&B/328/Shivpora/168/55 dated 03.06.2020 is stayed subject to the condition that whatever construction petitioner may raise on the spot shall be strictly in accordance with the terms of the building permission with a further condition that he shall file a undertaking to the satisfaction of the Registrar Judicial of this Court to the effect that in case the writ petition is decided against him, he shall demolish the construction that may be raised by him his own risk and cost.

5. Modification/alteration on motion.

6. List again on 22nd June, 2020.

7. Copy of this order be furnished to the learned counsel for the petitioner through e-mail.

(Sanjay Dhar)
Judge

Srinagar
08.06.2020
“*Bhat Altaf, PS*”