

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (PIL) No.2078 of 2018**

Rakesh Kumar Jha Petitioner.
-Versus-
The State of Jharkhand & Ors. Respondents.

**CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR**

For the Petitioner : Mr. Akhilesh Srivastava, Advocate
[through VC]
For the State : Mr. Piyush Chitresh, AC to AG
For Res.-JNAC : Mr. Krishna Kumar, Advocate
For Intervenors/ applicants : Mr. Umesh Pd. Singh, Sr. Advocate
[through VC]
Mr. R. S. Mazumdar, Sr. Advocate
Mr. Ajit Kumar, Sr. Advocate
Mr. Anil Kumar Sr. Advocate
Mr. Indrajit Sinha, Advocate
Mr. Bibhash Sinha, Advocate
Mr. Amit Kumar, Advocate
Mr. J. N. Upadhyay, Advocate

Order No.40

Date: 28.01.2026

I.A. Nos.430, 1209, 1221, 1223, 1224, 1225, 1226, 1292, 1302, 1309, 1310, 1311, 1312, 1313, 1314 & 1315/2026

1. Heard learned counsel for the parties.
2. These interlocutory applications seek modification of the coordinate Bench's order dated 14th January, 2026, on various grounds. Accordingly, they are heard and disposed of by this common order.
3. By the order dated 14th January, 2026, the co-ordinate Bench recorded the statement of Mr Krishna Kumar, the learned counsel for the Jamshedpur Notified Area Committee (JNAC-respondent no.4), that the structures put up by the private respondents, now impleaded as parties in this petition, being illegal, will be demolished within a month from today. This statement was accepted as an undertaking on behalf of the 4th respondent, and

the 4th respondent was directed to act consistent with its undertaking, so accepted by this Court.

4. The order of 14th January, 2026, records that this PIL relates to rampant illegal constructions at Jamshedpur within the jurisdiction of JNAC. It also records that this Court had appointed a committee of three advocates, which has submitted a report clearly setting out how the constructions put up by the private respondents are in defiance of the law. The order also records the submission of Mr Srivastava, the learned counsel for the petitioner, that none of the structures has a completion certificate, which is a mandatory requirement.
5. The Committee's report also found that the deviations and illegal construction of buildings exceeded the sanctioned limits. The Committee found that non-compliance with the bye-laws, coupled with the absence of effective monitoring by the relevant officials, was the main reason for the rampant illegal construction mushrooming in Jamshedpur within the jurisdiction of the JNAC.
6. This Court noted that tolerating such rampant illegal constructions in defiance of the law and lawful regulations amounts to the victimisation of honest and law-abiding persons, who have put up their constructions after complying with all the legal requirements and are still overshadowed and hassled by the mushrooming of such illegal constructions. This Court also noted that such a level of illegal constructions is not possible unless the authorities connived with those who dare to put up such

constructions or, on account of gross inaction and dereliction of duty, by the authorities, who failed to act.

7. When the order of 14th January, 2026, was made, some counsel appeared on behalf of the intervenors, but at that stage they were unable to make any submission regarding the number of intervenors or to describe who the intervenors were.
8. In all these interlocutory applications, one of the main grounds urged that demolitions should not have been ordered or the statement of JNAC that it would carry out demolitions should not have been accepted as an undertaking to this Court because this would result in violation of the Hon'ble Supreme Court's order in ***"Directions in Matter of Demolition of Structures, In Re."*** reported in ***(2025) 5 SCC 1.***
9. Learned counsel on behalf of the applicants submitted that there was a serious issue as to the constitution and the legal functioning of the JNAC. They referred to an order of the learned Single Judge in which a doubt was cast on the authority of JNAC to govern the area in which the applicants' constructions have been put up. Learned counsel argued that deviations within the permissible limits can always be regularised, and without giving the applicants an opportunity for regularisation, no demolition could have been ordered. Learned counsel for the applicants also submitted that the rule of law should apply in matters of demolitions, and since, rules have been prescribed for issuing demolition notices and even appealing against the same, such rules should not be deviated from by recording an undertaking

on behalf of JNAC or by this Court concluding that structures are illegal and the deviations are beyond the permitted limits.

10. Learned counsel for the applicants submitted that if the proper procedure were to be followed, then the applicants would have a right to appeal the demolition orders and satisfy the appellate authorities why their constructions are not illegal or why the deviations are within the permissible or condonable limits. On these grounds, learned counsel for the applicants submitted that we should modify the coordinate Bench's order of 14th January, 2026, stay the demolitions, and allow the JNAC to follow the procedure prescribed by law, so that an effective opportunity is afforded to all concerned.
11. We not only heard all the learned counsel for the applicants with patience, but we also specifically asked them whether they had any further submissions to make in this matter. Having stated that they have no further submissions and concluded their arguments, we have proceeded to dictate this order in their presence.
12. Significantly, in none of these applications have the applicants bothered to furnish any details indicating even *prima facie* the legality of their constructions or that their deviations are indeed within the permissible or the condonable limits. Arguments have no doubt been advanced, but without the same being supported by pleadings or even by any minimum credible evidence to sustain their claim that the structures have even a hint of legality.

None of the applicants has produced a completion certificate, which is a mandatory requirement.

13. Unfortunately, it has become common practice to obtain permission and then carry out construction in gross deviation from the conditions imposed by such permission. If the deviations are indeed within the permissible limits, then it is the duty of the person putting up such constructions to apply for a completion certificate by disclosing these deviations and demonstrating how these deviations are within the permissible limits. Only then can a completion certificate be issued by the authorities. The absence of a completion certificate indicates that the deviations in these cases exceed the permissible condonable limits.
14. In most cases, the constructions have been erected without obtaining the required permissions. In other cases, some permissions may have been obtained, but the constructions are in gross deviation from the terms and conditions set out in these permissions. Significantly, no completion certificates have been obtained, and the grievance is that such applicants should be granted an opportunity to apply for regularisation and to demonstrate to the authorities that the deviations are within the permissible or condonable limits.
15. Such an argument is not supported by any *prima facie* evidence and must be rejected. Besides, we note that this situation has arisen not just because the applicants before us and several others have indulged into a rampant illegal constructions but also on account of gross dereliction of duties on the part of JNAC and

other municipal authorities who are duty bound to not only prevent the mushrooming of such illegal constructions but also to take stern action when such illegal constructions are found to exist.

16. As observed by the coordinate Bench in the order of 14th January, 2026, it is most difficult to accept that such constructions were possible other than with the active connivance of the authorities or, in any event, on account of gross inaction on the part of the authorities in initiating action. It is this attitude which emboldens the applicants like the ones who are before us today, who raise all kinds of pleas in the name of the Rule of law when they have, themselves, shown the most scant regard to the Rule of law when putting up these constructions or when deviating grossly from the permissions under which such constructions were commenced.
17. Therefore, the arguments concerning compliance with the rule of law must be rejected. First, there are no pleadings supported by even *prima facie* documents to suggest that the deviations are within the condonable limits; second, these applicants have failed to demonstrate any hint of legality in the structures they have unilaterally erected and now seek to defend. The committee report flagging the gross illegalities stands virtually unrebutted.
18. The directions in the case of ***Directions in the Matter of Demolition of Structures, in Re. (Supra)*** were issued in the context not at all comparable to the gross facts and circumstances of the present case. Here, it is not as if the rule of law has not been complied with. The applicants had a full

opportunity to seek completion certificates if they seriously believed that the deviations they undertook were within the condonable limits. The applicants had full opportunity to produce the permissions, licenses or authority under which the constructions were put up. The principles of natural justice cannot be unnaturally expanded.

19. In the decision of the Hon'ble Supreme Court relied upon by the applicants, demolitions were ordered merely because some of the persons who had put up the constructions were involved in criminal offences or were alleged to have been involved in criminal offences. On such grounds, and without following the due process of law, their constructions were sought to be bulldozed. The Hon'ble Supreme Court noted that such demolitions amount to bulldozer justice and cannot be countenanced. The facts in the present case are not even remotely comparable to the fact-situation involved in the case before the Hon'ble Supreme Court. Therefore, based upon the directions issued therein, no case is made out for modifying or vacating the order dated 14th January, 2026.
20. The argument cannot be that, although the applicant has nothing to establish the legality of the structure or the permissiveness of the deviations, the action should be halted merely because no formal notice was issued. Since the applicants now seek a variation of this Court's order, at least in the interim applications, some *prima facie* material should have been produced to demonstrate that the structures they have erected have some

legality. In the absence of any such material, we see no good ground for variation of the order, which merely records the statement of JNAC that the structures are patently illegal and steps would be taken to demolish the same within the timeline indicated.

21. The coordinate Bench did not pass the order of 14th January, 2026, solely on the basis of the JNAC's statement. Co-ordinate Bench, in order to satisfy its conscience and also ascertain the position of the structures at the site, appointed a committee of three advocates. This committee has undertaken a detailed exercise and submitted a report. This report points out how most of the constructions were put up brazenly and without any permission. The committee's report also notes that some constructions commenced on the basis of permissions, but the deviations were so gross as to exceed the condonable limits. In either case, the report identifies the extent of illegal construction that has virtually corroded civic facilities within the jurisdiction of the JNAC.
22. The arguments that JNAC lacks authority or jurisdiction over the area, and similar arguments, are not grounds for varying the coordinate Bench's order of 14th January, 2026. These arguments almost suggest that the area in question is to be governed by no authority whatsoever, and therefore, the applicants and others similarly placed have full liberty to make any constructions wherever they want, unhindered by any legal provisions which

otherwise control the putting up of such constructions in this area.

23. The question is not whether JNAC has authority or no authority, but whether the constructions put up are in accordance with the law and regulations that govern the field. None of the applicants went as far as expressly arguing that the area where they have put up the constructions is not governed by any law or regulations, and therefore they have absolute liberty to put up constructions, and that such constructions cannot be questioned by any authority. However, the import of their arguments questioning the authority of JNAC was almost similar. Such arguments cannot be good grounds to vary the order of 14th January, 2026.
24. Even the submission about JNAC lacking authority is based upon a misconstruction of certain orders made by the learned Single Judge in a context completely unconnected with the issues raised in this public interest litigation.
25. The law regarding the regularisation of patently illegal constructions is quite clear. The regularisation provisions are an exception, not the rule. The Hon'ble Supreme Court has time and again held that regularisation of illegal constructions cannot be claimed as a matter of right. In fact, the Hon'ble Supreme Court has held that it is only in exceptional cases and that too, where it is established that the deviations are within the condonable limits, a regularisation can be claimed. The Hon'ble Supreme Court has

also held that it is high time that no mercy or indulgence is shown towards illegal constructions.

26. The Hon'ble Supreme Court has also held that it is high time that action was taken against officials whose connivance, or whose inaction, has made possible the rampant mushrooming of illegal constructions. This is certainly a matter of public interest. This Court, when faced with the rampant mushrooming of illegal constructions, is not barred from directing demolitions, particularly when no dispute is raised by the authorities regarding the illegality of the structures. In this case, there is a report of the committee, and the JNAC has categorically stated that these constructions are patently illegal and therefore, steps would be taken for their demolition.
27. The High Court of Judicature at Bombay, in the case of ***Rafique Rahemtullah Kabani vs. the Assistant Engineer and Designate Officer & Ors.***, reported in ***2024 6 AIIMR 166***, has held that even otherwise, the law concerning the regularisation of illegal constructions is fairly well settled. The benefit of regularisation is never to be extended to parties that brazenly and with impunity violate building or environmental regulations. The Hon'ble Supreme Court has repeatedly warned against such regularisations and even directed action against officials who regularised such constructions without adequate cause. The Court has held that such indiscriminate regularisation discriminates against the law-abiding citizens who refuse to pay bribes and follow the due, though long, process of securing

permission from all prescribed authorities before putting up any construction.

28. In ***Esha Ekta Apartments Cooperative Housing Society Limited and Ors. vs. Municipal Corporation of Mumbai and Ors., (2013) 5 SCC 357***, the Hon'ble Supreme Court observed that in the last five decades, the provisions contained in various municipal laws for planned development of the areas to which such laws are applicable have been violated with impunity in all the cities, big or small. Those entrusted with the task of ensuring the implementation of the master plan, etc., have miserably failed to perform their duties. It is highly regrettable that this is so despite the fact that this Court has, keeping in view the imperatives of preserving the ecology and environment of the area and protecting the rights of the citizens, repeatedly cautioned the authorities concerned against arbitrary regularisation of illegal constructions by way of compounding and otherwise.
29. In ***Royal Paradise Hotel (P) Ltd. vs. State of Haryana, (2006) 7 SCC 597***, the Hon'ble Supreme Court rejected the plea for regularisation of construction made in violation of the provisions of the planning and municipal legislation by observing that no authority administering municipal laws and other laws like the Act involved in the matter, can encourage such violations. Even otherwise, compounding is not to be done when violations are deliberate, designed, reckless, or motivated. Marginal or insignificant accidental violations unconsciously made after trying

to comply with all the law requirements can alone qualify for regularisation, which is not the rule but a rare exception.

30. In ***Dipak Kumar Mukherjee vs. Kolkata Municipal Corporation and Ors., (2013) 5 SCC 336***, the Hon'ble Supreme Court has held that what needs to be emphasised is that illegal and unauthorised constructions of buildings and other structures not only violate the municipal laws and the concept of planned development of the particular area but also affect various fundamental and constitutional rights of other persons. The common man feels cheated when he finds that those making illegal and unauthorised constructions are supported by the people entrusted with the duty of preparing and executing the master plan/development plan/zonal plan. The reports of the demolition of hutments and jhuggi shops belonging to the poor and disadvantaged section of society frequently appear in the print media. Still, one seldom gets to read about the demolition of illegally/unauthorisedly constructed multi-storeyed structures raised by economically affluent people. The failure of the State apparatus to take prompt action to demolish such illegal constructions has convinced the citizens that planning laws are enforced only against the poor and all compromises are made by the State machinery when it is required to deal with those who have money and power or unholy nexus with the power corridors.

31. In ***Shanti Sports Club vs. Union of India, (2009) 15 SCC 705***, the Hon'ble Supreme Court has, after advertizing to its several earlier judgments on the subject, taken cognisance of

buildings constructed in violation of municipal and other laws and emphasised that no compromise should be made with the town planning scheme and no relief should be given to the violator of the town planning scheme, etc. on the ground that he has spent a substantial amount on the construction of the buildings.

32. The Hon'ble Supreme Court remarked that, unfortunately, despite repeated judgments of the Supreme Court and High Courts, illegal constructions continue to mushroom, and thereafter, pleas are made for regularisation on the grounds of compassion and hardship. Therefore, the Hon'ble Supreme Court has observed that it is high time that the executive and political apparatus of the State take a serious view of the menace of illegal and unauthorised constructions.
33. In ***Friends Colony Development Committee vs. State of Orrisa, (2004) 8 SCC 733***, the Hon'ble Supreme Court has held that structural and lot area regulations authorise the municipal authorities to regulate and restrict the height, the number of storeys and other structures, the percentage of a plot that may be occupied; the size of yards, courts, and open spaces; the density of population; and the location and use of buildings and structures. All these have and do achieve the larger purpose of public health, safety or general welfare. So are front setback provisions, average alignments, and structural alterations. Any violation of zoning and regulation laws takes a toll in terms of public welfare and convenience being sacrificed apart from the

risk, inconvenience, and hardship posed to the occupants of the building.

34. The Hon'ble Supreme Court further observed that municipal laws permit deviations from sanctioned constructions being regularised by compounding, but that is by exception. Unfortunately, with the lapse of time and frequent exercise of the discretionary power conferred by such exception, the exception has become the Rule. Only such deviations deserve to be condoned as are bonafide or are attributable to some misunderstanding or are such deviations as where the benefit gained by demolition would be far less than the disadvantage suffered. Other than these, deliberate deviations do not deserve to be condoned and compounded. Therefore, compounding of deviations ought to be kept at a bare minimum.
35. Thus, neither the facts nor the law, nor the binding precedents on the subject, support the pleas raised in these I.As. or the arguments advanced in support of them. No change of circumstances is pleaded or made good. Only general and vague arguments contrary to legal provisions or binding precedents were advanced. No serious attempt was made to demonstrate, even *prima facie*, that the constructions were legal or within the condonable limits. Given the categorical statements made by JNAC and the committee's reports, the onus was entirely on the applicants to demonstrate at least the *prima facie* legality of their constructions. In this regard, all the applicants have failed.

36. For all the above reasons, we dismiss these interim applications as meritless. However, we refrain from imposing any cost.

(M. S. Sonak, C.J.)

(Rajesh Shankar, J.)

28th January, 2026
Sanjay/Rohit
Uploaded on 29.01.2026