

**CWP-24856-2023 (O&M) *along with*
CWP-25169-2023 (O&M)**

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285 (2 Cases)

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

Date of Decision: 03.05.2025

(I) CWP-24856-2023 (O&M)

2025:PHHC:057363



Sawera Travels Private Limited Through Its Managing Director

..... Petitioner

Versus

State of Punjab and others

..... Respondents

(II) CWP-25169-2023 (O&M)

2025:PHHC:057372



Punjab National Bank

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Ashish Aggarwal, Senior Advocate assisted by
Mr. V.K. Sandhir, Advocate,
Ms. Aashna Aggarwal, Advocate and
Mr. Vishal Pundir, Advocate
for the petitioner (in CWP-24856-2023).

Mr. V.K. Sachdeva, Advocate,
Mr. Pulkit Sachdeva, Advocate and
Mr. Gaurav Goel, Advocate
for the petitioner (in CWP-25169-2023).

Mr. B.S. Bali, Addl. A.G., Punjab.

Mr. Sanjeev Soni, Advocate and
Mr. Sarthak Soni, Advocate
for respondents No.3 and 4 (in CWP-24856-2023) and
for respondent No.2 (in CWP-25169-2023).

Mr. V.K. Sandhir, Advocate
for respondent No.3 (in CWP-25169-2023).

Mr. Rajeev Anand, Advocate (Amicus Curiae).

HARSH BUNGER J.

This order shall dispose of two writ petitions, bearing CWP-24856-2023 and CWP-25169-2023, as both of them involve common question of law and fact. The facts appearing in the aforesaid two cases and also the stand of Municipal Authorities in the respective cases; are extracted in the following paragraphs.

(I) CWP-24856-2023:

2. Petition herein is, *inter alia*, for issuance of a writ in the nature of Certiorari for quashing the order dated 12.10.2023 (Annexure P-10) passed by the learned Commissioner, Municipal Corporation, Amritsar, whereby the petitioner has been directed to demolish the unauthorized and illegal constructions at his own level within fifteen days, failing which the same will be demolished by the Department at the petitioner's cost.

3. Briefly, petitioner is a private limited company registered under the Companies Act, 1956. Petitioner-Company (M/s Sawera Travels) was into the business of travel agency and currency exchange, however, subsequently, they decided to enter into the business of hotel as Amritsar is a tourist place. The petitioner-Company is stated to have purchased the land from Punjab National Bank vide Sale Deed dated 09.12.2020. It is further

stated that the project undertaken by the petitioner was a mega project and a part of new service enterprise, and therefore, the petitioner-Company was given exemption from payment of stamp duty.

3.1 It appears that petitioner-Company applied for sanctioning of building plan, which was sanctioned vide letter dated 17.09.2021 (Annexure P-3) and thereafter, the petitioner-Company applied for a revised Site Plan for increasing the height and number of floors of the building, which petitioner claims to have been sanctioned vide order dated 29.04.2022 (Annexure P-4). Petitioner claims that it had obtained provisional Fire Safety Certificate (Annexure P-5) and had duly deposited the change of land user charges and also the property tax.

3.2 It is averred that on 26.05.2023, at about 7:00 A.M., staff of Municipal Corporation came at the site of the project along with JCB and drill machines and without showing any order of demolition, started damaging the walls of the building, however, when the shopkeepers gathered there, they stopped their acts. Thereafter, the petitioner approached this Court by filing CWP No.12754 of 2023, which came to be disposed of vide order dated 02.06.2023 (Annexure P-9), directing the Municipal Authorities to consider the representation dated 29.05.2023 submitted by the petitioner within a period of six weeks. The relevant extract of the order reads as under:-

“4. Keeping in view the above said facts and circumstances, the present petition is disposed of with a direction to the Municipal Commissioner, Amritsar to consider the representation (Annexure P-11) within a period of one month from today and after considering the said representation, the Municipal Commissioner is of the opinion that the pleas raised by the petitioner are meritorious, then necessary relief, in

accordance with law, be granted to the petitioner. In case, the Municipal Commissioner is of the opinion that pleas raised by the petitioner are meritless, then the same be rejected by passing a speaking order within a period of six weeks from today.

5. It is made that this Court has not opined on the merits of the case and the Municipal Commissioner would consider the representation independently, in accordance with law.”

3.3 Thereafter, the representation submitted by the petitioner-Company came to be decided by the learned Commissioner, Municipal Corporation, Amritsar, vide impugned order dated 12.10.2023 (Annexure P-10). It is the case of the petitioner-Company that before passing the order dated 12.10.2023, no Show Cause Notice/opportunity of hearing has been afforded to them nor any opportunity has been afforded for taking corrective measures. It is also contended that on one hand, the order has been passed to seal the property, whereas on the other hand, a direction has been issued to the petitioner to demolish the illegal and unauthorized construction.

3.4 In the aforementioned circumstances, the present writ petition has been filed before this Court, seeking relief(s) as noticed hereinabove.

Response of Municipal Corporation, Amritsar to CWP-24856-2023:

4. The stand of the Municipal Corporation, Amritsar, is that the petitioner-Company had applied for sanctioning of two site plans on the Invest Punjab Portal, vide two applications, i.e. application ID 2170592625 and 2204179373. It is stated that as per the application ID 2170592625, there is 53.59% coverage on the ground, second, service and third floor, whereas on the first floor, the coverage is 28.54% (as proposed). The said application is stated to be still under process. As regards the second

application ID 2204179373, it is stated that the coverage is 59.90% on the first floor, 50.30% on second and third floor, and 14.38% on fourth floor, which has been sanctioned. It is stated that the petitioner-Company had never applied for revised sanction for increase in the height and floors of the building and that a forged and false document dated 29.04.2022 (Annexure P-4) has been attached, which has in fact never been issued by the Municipal Corporation, Amritsar.

4.1 It is the case of the Municipal Authorities that the petitioner-Company has constructed basement, ground plus nine storey commercial building in the shape of a hotel up to the height of 100 ft. and that too by joining two different units into a single unit, which is not permissible under the building bye-laws. It is stated that the maximum height of any commercial building can be up to 70 ft. but the petitioner has raised construction of about 100 ft. in height. It is next stated that the Municipal Corporation had already written to the Commissioner of Police for registering an FIR against the petitioner for forging the document.

4.2 It is stated that after the passing of a *status quo* order dated 06.11.2023 by this Court in the present writ petition, the petitioner was continuing with illegal and unauthorized construction, for which a contempt petition has already been filed against them.

4.3 As regards the order dated 02.06.2023 passed by this Court in CWP No.12754 of 2023, it is stated that upon receipt of the aforesaid order, the learned Commissioner, Municipal Corporation, Amritsar, marked an enquiry to the Joint Commissioner to probe the matter wherein the petitioner was called for personal hearing on 22.09.2023 and 29.09.2023. Petitioner-Company through its representative is stated to have appeared

before the Joint Commissioner. It is stated that the representative of the petitioner-Company handed over a copy of the forged and fabricated sanctioned building plan dated 29.04.2022, on the basis of which, they claimed to have raised construction at the site. However, upon being enquired as to how the said building plan was got sanctioned, the representative of the petitioner-Company got his statement recorded, the relevant extract of which reads as under:-

“I, Anil Kumar son of Kirti Lal, appearing before the Hon’ble Joint Commissioner, Municipal Corporation, Amritsar on 22-9-23 regarding this inquiry, state that today I was examined by the Joint Commissioner regarding my building no.4301-4307. I was called regarding the Site Plan that has passed G+9. I present this self-attested copy of site plan and states that one Mr. Navinder Sharma who has been shifted to America these days and whose mobile no.0013479302073 has taken my investment Punjab Password and after 10 days he has given me the sanctioned site plan. He took an advance of 10 thousand rupees from me before and when he gave me sanctioned site plan, he took Rs.1,10,000/- from me. Mr. Navinder Sharma used to call me on different numbers and I do not have his residential address in Punjab. He met me outside the office of Municipal Corporation, Amritsar. This is about one and a half years old, if I get any of his numbers, I will provide them.

I am not computer literate due to which I have never checked the portal of Investment Punjab.”

4.4 It is still further stated that in compliance of the order dated 02.06.2023 passed by this Court in CWP No.12754 of 2023, the learned Commissioner, Municipal Corporation, Amritsar has passed a detailed order rejecting the representation of the petitioner.

4.5 It is the stand of the Municipal Authorities that the present writ

petition is pre-mature inasmuch as that before issuing demolition order, proper notice will be issued to the petitioner and the action of demolition would be taken in due course of law. It is further stated that there is also a remedy of statutory appeal against the demolition order. With the aforesaid submissions, prayer of dismissal of the present writ petition has been made.

(II) CWP-25169-2023:

5. Petition herein is, *inter alia*, for issuance of a writ in the nature of Certiorari for quashing letter/communication dated 13.10.2023 (Annexure P-1) issued by the Municipal Corporation, Amritsar (respondent No.2), whereby directions have been issued to permanently seal the building situated at 1680/1 (4301-4307), Hall Bazaar, Amritsar, in case of failure of the petitioner-Bank to relocate its Branch within a period of four weeks; such action being in violation of the principles of natural justice.

5.1 A further prayer has been made for issuance of a writ in the nature of Prohibition, for prohibiting respondent No.2 – Municipal Corporation, Amritsar, from sealing or demolishing the building, as contemplated in the impugned communication dated 13.10.2023 (Annexure P-1), on the ground that the Punjab Municipal Corporation Act, 1976 (in short, “the 1976 Act”) does not confer any power of sealing upon the said authority.

6. Briefly, the petitioner-Bank is stated to have issued a newspaper publication dated 16.12.2022 (Annexure P-2), inviting offers for premises for shifting/relocation of its Hall Bazaar, Amritsar Branch to a prospective branch within a radius of 500 meters from the existing branch, having a carpet area of approximately 2700 sq. ft. It was made clear in the publication that the premises offered should be accompanied by requisite clearance

certificates from the competent/statutory authorities, and that the Bank was willing to enter into a long-term lease for a period of fifteen years.

6.1 It is averred that M/s Sawera Travels Private Limited approached the petitioner-Bank, claiming to be the owner of property bearing No.1680/1 (4301-4307), Old OBC Building, situated adjoining Ramgarhia Education Society, Hall Bazaar, Amritsar, Punjab. The petitioner-Bank is stated to have inquired as regards the details and documents regarding the said property from the M/s Sawera Travels, vide e-mail dated 19.01.2023 (Annexure P-3), relevant extract of which reads as under:-

“1. As per the sanctioned plan dated 19.04.2022 for plot area 244 Sq. Yd., proposed sanctioned area for ground floor is 1153.68 sq. ft. and as per sanctioned plan dated 17.09.2021 for plot area 440 sq. yd., proposed sanctioned area at ground floor is 1796 sq. ft., so total proposed sanctioned area at ground floor is 2949.68 sq. ft. So you are requested to provide the map for the area which will be leased out to the Bank out of 2949.68 sq. ft.

2. To undertake to submit Completion Certificate for the premises offered.

3. Please provide certified copy of the byelaws of Ramgarhia Educational society modified up 20.12.2018 and certified copy of the resolution dated 15.09.2021 from the sub registrar of societies office.

4. Kindly confirm that new ATM cabin to be constructed by you at your own cost as per requirement of the Bank without any additional cost.

5. Please confirm that sufficient parking space along with space for Gen-set to be provided by you without any additional cost.”

6.2 It is further averred that M/s Sawera Travels, vide letter dated

20.01.2023 (Annexure P-4), provided the following information:-

- “1. As per our submitted sanctioned building plan, we confirm that 2970.00 Sq. Ft. Carpet area will be provided with 28 feet frontage and completion certificate will be submitted in due course. It is also confirmed that we will indemnify bank upto extent of loss incurred in case any adverse situation arises due to sanctioned plan, myself and my company will be fully responsible in that case.*
- 2. We confirm that new ATM cabin will be constructed (civil work) will be done by our side.*
- 3. Certified copy of Rules and Regulations of Ramgarhia Educational Society is enclosed for your kind perusal.*
- 4. We confirm that sufficient parking space will be provided and provision for placing DG set will also be provided without any additional cost.”*

6.3 It appears that the petitioner-Bank, vide letter dated 22.03.2023 (Annexure P-5), informed M/s Sawera Travels that their property had been shortlisted for shifting of the Branch office. The said letter, apart from other terms and conditions, contained the following conditions:-

- “* NOC from competent authority for commercial use of the premises should be obtained before execution of lease deed on Bank’s standardized format.*
- * All the mandatory NOCs including NOC from Fire Department should be obtained and submit the same to the bank before execution of lease deed.*
- * Copy of Approved map of the building from competent authority should be submitted.*
- * Proper Fire Equipment should be present in the branch and Clearance from the Fire Department will be taken.*
- * Copy of Completion certificate of the building should be provided by the lessors from competent authority before execution of lease deed and it will be kept in record with lease*

deed.

** Lessors must have a clear title to the property for execution of lease deed.”*

6.4 It further appears that M/s Sawera Travels submitted an undertaking to the petitioner-Bank vide letter dated 12.07.2023 (Annexure P-6), relevant extract of which is reproduced as under:–

“I ANIL SURRI S/O KIMTI LAL SURI R/O-25A, MAQBOOL ROAD AMRITSAR MANAGING DIRECTOR OF SAWERA TRAVELS PVT. LTD., 2230/1 KATRA BAGHIAN AMRITSAR being owners of property situated at #1680/1 (4301-4307), Old OBC Building, Adjoining Ramgarhia Education Society, Hall Bazar, Amrtisar to be leased out to the Punjab National Bank, B/O-Hall Bazar, Amrtisar hereby undertake that:-

- 1. We have clear title to the property being offered to the bank on lease.*
- 2. We will provide space for Parking and GenSet without any additional cost/We can provide GenSet as per requirement/cost of the bank.*
- 3. We will provide adequate Power Connection to the office at out cost.*
- 4. We have No Objection for placing V-Sat Antenna/RF Tower/Connectivity Pole on the roof top of the premises without any additional cost. The lease shall include rooftop rights for installation of the VSAT.*
- 5. We hereby provide Copy of Approved Map of Building (Copy Attached) to the Bank.*
- 6. We hereby provides NOC for Commercial Use of Land/property from Competent Authority. (Copy Attached)*
- 7. We hereby provides NOC for Fire Department (Copy Attached) and also undertakes to provide the same every year from own cost.*
- 8. Proposed building has been constructed strictly in conformity with the byelaws.*

9. Ramp facility has been provided at the entrance of the proposed premises at our cost.

10. Strong Room has been constructed as per Bank's specification.

11. ATM Room has been constructed as per Bank's specifications.

12. Provision for separate Toilets for Male & Female has been provided.

13. Provision for Safe Drinking water has been provided.”

6.5 It is the pleaded case of the petitioner-Bank that being satisfied with the documents furnished by M/s Sawera Travels, a public notice dated 29.07.2023 (Annexure P-7) was issued, announcing relocation of its Branch to the aforesaid property of M/s Sawera Travels. It is further averred that prior to taking the premises on lease, the Bank carried out due diligence, whereafter, the petitioner-Bank entered into a Lease Agreement with M/s Sawera Travels through a registered Lease Deed dated 11.08.2023 (Annexure P-8). On the same date, M/s Sawera Travels also furnished an undertaking (Annexure P-9), declaring that no litigation was pending with respect to the property in question.

6.6 The petitioner-Bank states that pursuant to execution of the Lease Deed dated 11.08.2023, it relocated/shifted its Branch to the newly leased premises, took possession thereof and started banking operations from the said site. However, it is noticeable that the petitioner-Bank has not disclosed any specific date on which it started its banking functions from the aforesaid premises.

6.7 It is stated that on 12.10.2023, at about 6:30 P.M., officials of the Municipal Corporation visited the leased premises of the petitioner-Bank and sealed the same, without serving any prior Show Cause Notice or providing a copy of the sealing order either to the petitioner-Bank or to the

landlord – M/s Sawera Travels. The petitioner-Bank thereafter sent an e-mail dated 12.10.2023 (Annexure P-12) to M/s Sawera Travels, informing them about the sealing of the property and requesting them for making necessary arrangements to ensure smooth conduct of the banking operations. The petitioner-Bank is further stated to have submitted a representation dated 13.10.2023 (Annexure P-13) before the Municipal Corporation, seeking unsealing of the premises so as to avoid inconvenience to the public for banking purposes. On the same date, i.e. 13.10.2023, the petitioner-Bank also addressed letter (Annexure P-14) to M/s Sawera Travels, inquiring whether any Show Cause Notice or order of sealing/demolition had been issued in respect of the property, and also, whether a Completion Certificate had been obtained from the competent authorities.

6.8 In response to the aforesaid letter dated 13.10.2023 (Annexure P-14), M/s Sawera Travels, vide communication dated 27.10.2023 (Annexure P-15), stated that they had not received any Show Cause Notice or any order of sealing/demolition. However, with regard to the Completion Certificate, it was informed that the same is issued only after completion of the entire construction, however, the building in question was still under construction.

6.9 It appears that on 13.10.2023 itself, upon consideration of the representation dated 13.10.2023 (Annexure P-13) submitted by the petitioner-Bank, the Municipal Corporation issued the impugned communication/letter dated 13.10.2023 (Annexure P-1), relevant extract of which is reproduced as under:-

“With regard to above subject and reference, vide your request letter you have requested that you have followed due process before shifting the branch of bank to the ground floor of

building on lease captioned in the subject, and you have not deliberately violated any law. In this regard you are hereby informed that the aforementioned building in which the Bank has been shifted, the Municipal Corporation, Amritsar has conducted proceedings for demolition due to being unauthorized, and on 12-10-2023 it has been sealed. According to the Building Byelaws, no building can be put to use without obtaining completion certificate. However, you commenced the work of Bank without obtaining completion certificate of this unauthorized building, which was sealed by the Municipal Corporation on 12-10-2023. You have requested to open the seal of the Bank Branch on the basis of difficulties faced by the general public. Since Bank is an essential service and due to it being sealed, the general public can face a lot of problems, therefore taking into consideration your request, Seal applied to Bank is opened on this condition that you shall be liable to shift the Branch within a period of 4 weeks (28 days) from the captioned building, and to inform the Corporation office. In case of violation of the aforesaid, the Bank Branch shall be sealed permanently.”

6.10 Thereafter, the petitioner-Bank is stated to have approached the Municipal authorities vide letter dated 31.10.2023 (Annexure P-16) seeking copies of the Show Cause Notice, sealing order and other relevant documents; followed by an e-mail dated 02.11.2023 (Annexure P-17).

7. In the aforementioned circumstances, the present writ petition has been filed before this Court, seeking relief(s) as noticed hereinabove.

Response of Municipal Corporation, Amritsar to CWP-25169-2023:

8. In CWP No.25169 of 2023, the stand of the Municipal Corporation, Amritsar, is that the petitioner-Bank has not approached this Court with clean hands and has concealed material information. It is contended that the advertisement dated 16.12.2022 (Annexure P-2) issued by

the petitioner-Bank as well as its subsequent communication with M/s Sawera Travels clearly indicated that the bidder was required to submit the Completion Certificate of the premises. It is further pointed out that M/s Sawera Travels, vide letter dated 20.01.2023 (Annexure P-4), informed the petitioner-Bank that the Completion Certificate would be submitted in due course. In the communication dated 22.03.2023 (Annexure P-5), whereby the petitioner-Bank informed M/s Sawera Travels regarding the shortlisting of their property, it was clearly indicated that M/s Sawera Travels would obtain the requisite No Objection Certificates from the competent authorities, including the Fire Department, for commercial use of the premises, and also that a copy of the Completion Certificate of the building should be furnished by the lessor – M/s Sawera Travels before execution of the Lease Deed.

8.1 It is stated that despite specific conditions, the petitioner-Bank proceeded to take the premises on lease without obtaining the requisite Completion Certificate from M/s Sawera Travels. Accordingly, it is contended that the petitioner-Bank is the author of its own wrongful act and conduct of having taken the premises on lease without ensuring the availability of a valid Completion/Occupancy Certificate from the competent authority.

8.2 It is further stated by the Municipal Corporation that M/s Sawera Travels was fully aware that the construction being raised at the site was not in consonance with the sanctioned building plan; and when action was contemplated against them, they approached this Court by filing CWP No. 12754 of 2023, which was disposed of vide order dated

02.06.2023, directing the Municipal Commissioner, Amritsar to consider the representation submitted by M/s Sawera Travels.

8.3 It is stated that in pursuance of the aforesaid order dated 02.06.2023, an enquiry was conducted and after due consideration of the matter, a detailed order dated 12.10.2023 (Annexure R-2/2) came to be passed. It is next submitted that thereafter M/s Sawera Travels filed another writ petition bearing CWP No.24856 of 2023 before this Court, however, in the said writ petition, there is no mention of the fact that a portion of the building had already been leased out to the petitioner-Bank. Accordingly, prayer has been made for dismissal of the writ petition.

9. I have heard learned counsel for the respective parties and also learned Amicus Curiae – Mr. Rajeev Anand, Advocate.

10. Upon consideration of the submissions/pleadings of the respective parties in both the writ petitions, the following questions arise for consideration before this Court:-

- (i) Whether the authorities under the Punjab Municipal Corporation Act, 1976 have the jurisdiction/power to direct sealing of the property?
- (ii) Whether the order dated 12.10.2023 (Annexure P-10) impugned in CWP No.24856 of 2023 is liable to be quashed?
- (iii) Whether the letter/communication dated 13.10.2023 (Annexure P-1) impugned in CWP No.25169 of 2023 is liable to be quashed?

Discussion:

11. Here, it would be apposite to refer to Sections 262, 269, 272 and 274 of the Punjab Municipal Corporation Act, 1976 and also the

Bye-laws 2.145 and 3.14.7 of the Punjab Municipal Building Bye-laws, 2018 (in short 'the 2018 Building Bye-laws') framed under Section 399 of the Punjab Municipal Corporation Act, 1976; as they would be germane for decision of these petitions. The said provisions read as under:-

262. Sanction or refusal of building or work. - (1) *The Commissioner shall sanction the erection of a building or the execution of a work, unless such building or work would contravene any of the provisions of sub-section (2) of this section or the provisions of section 266.*

(2) *The grounds on which the sanction of a building or work may be refused shall be the following, namely –*

(a) that the building or work or the use of the site for the building or work or any of the particulars comprised in the site plan, ground plan, elevation, section or specification would contravene the provisions of any bye-law made in this behalf or of any other law or rule, bye-law or order made under such other law ;

(b) that the notice for sanction does not contain the particulars or is not prepared in the manner required under the bye-laws made in this behalf ;

(c) that any information or documents required by the Commissioner under this Act or any bye-laws made thereunder has or have not been duly furnished;

(d) that in cases falling under section 238, layout plans have not been sanctioned in accordance with section 239 ;

(e) that the building or work would be an encroachment on Government land or land vested in the Corporation ;

(f) that the site of the building or work does not abut on a street or projected street and that there is no access to such building or work from any such street by a passage or pathway appertaining to such site ;

(g) that the building or work would be in contravention of any scheme sanctioned under section 275.

(3) The Commissioner shall communicate the sanction to the person who has given the notice ; and where he refuses sanction on any of the grounds specified in sub-section (2) of this section or under section 266, he shall record a brief statement of his reasons for such refusal and communicate the refusal along with the reasons therefor to the person who has given the notice.

(4) The sanction or refusal as aforesaid shall be communicated in such manner as may be specified in the bye-laws made in this behalf.

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269. Order of demolition and stoppage of buildings and works in certain cases and appeal. -

(1) Where the erection of any building or execution of any work has been commenced, or is being carried on or has been completed without or contrary to the sanction referred to in Section 262 or in contravention of any condition subject to which such sanction has been accorded or in contravention of any of the provisions of this Act or bye-laws made thereunder, the Commissioner, may in addition to any other action that may be taken under this Act, make an order directing that such erection or work shall be demolished by the person at whose instance the erection or work has been commenced or is being carried on or has been completed within such period (not being less than three days from the date on which a copy of the order of demolition with a brief statement of the reasons therefor has been delivered to that person) as may be specified in the order of demolition:

Provided that no order of demolition shall be made unless the person has been given by means of a notice served in such manner as the Commissioner may think fit, a reasonable opportunity of showing cause why such order should not be made:

Provided further that where the erection or work has not been completed, the Commissioner may by the same order

or by a separate order, whether made at the time of the issue of the notice under the first proviso or at any other time, direct the person to stop the erection of work until the expiry of the period within which an appeal against the order of demolition, if made, may be preferred under sub-section (2).

(2) Any person aggrieved by an order of the Commissioner made under sub-section (1) may prefer an appeal against the order to the Court of the District Judge of the City within the period specified in the order for the demolition of the erection or work to which it relates.

(3) Where an appeal is preferred under sub-section (2) against an order of demolition, the Court of the District Judge may stay the enforcement of that order on such terms, if any, and for such period, as it may think fit :

Provided that where the erection of any building or execution of any work has not been completed at the time of the making of the order of demolition, no order staying the enforcement of the order of demolition shall be made by the Court of the District Judge unless security, sufficient in the opinion of the Court, has been given by the appellant for not proceeding with such erection or work pending the disposal of the appeal.

(4) Save as provided in this section no court shall entertain any suit, application or other proceeding for injunction or other relief against the Commissioner to restrain him from taking any action or making any order in pursuance of the provisions of this section.

(5) Every order made by the Court of the District Judge on appeal and subject only to such order, the order of demolition made by the Commissioner shall be final and conclusive.

(6) Where no appeal has been preferred against an order of demolition made by the Commissioner under sub-section (1) or where an order of demolition made by the Commissioner under that sub-section has been confirmed on appeal, whether with or without variation, the person against whom the order has been made shall comply with the order within the period

specified therein, or as the case may be, within the period, if any, fixed by the Court of the District Judge on appeal, and on the failure of the person to comply with the order within such period, the Commissioner may himself cause the erection of the work to which the order relates to be demolished and the expenses of such demolition shall be recoverable from such person as an arrear of tax under this Act.

- x - x -

272. Completion certificate –

(1) Every person who employs a licensed architect or engineer or a person approved by the Commissioner to design or erect a building or execute any work shall, within one month after the completion of the erection of the building or execution of the work, deliver or send or cause to be delivered or sent to the Commissioner a notice in writing of such completion accompanied by a certificate in the form prescribed by bye-laws made in this behalf and shall give to the Commissioner all necessary facilities for the inspection of such building or work.

(2) No person shall occupy or permit to be occupied any such building or use or permit to be used any building or a part thereof effected by any such work until permission has been granted by the Commissioner in this behalf in accordance with bye-laws made under this Act:

Provided that if the Commissioner fails within a period of thirty days after the receipt of the notice of completion to communicate his refusal to grant such permission, such permission shall be deemed to have been granted.

- x - x -

274. Power to order building to be vacated in certain circumstances.-

(1) The Commissioner may by order in writing direct that any building which in his opinion is in a dangerous condition or is not provided with sufficient means of egress in case of fire or is occupied in contravention of section 272 be vacated forthwith

or within such period as may be specified in the order :

Provided that at the time of making such order the Commissioner shall record a brief statement of the reasons therefor.

(2) If any person fails to vacate the building in pursuance of such order the Commissioner may direct any police officer to remove such person from the building and the police officer shall comply with such direction accordingly.

(3) The Commissioner shall, on the application of any person who has vacated, or been removed from any building in pursuance of an order made by him, reinstate such person in the building on the expiry of the period for which the order has been in force according to the circumstances prevailing at that time permit.”

“Punjab Municipal Building Bye-laws, 2018:-

2.145 Unauthorized construction: *Means the erection or re-erection, addition or alterations which is not approved or sanctioned by the competent authority.*

3.14.7 Unauthorized Development *In case of unauthorized development, the Authority shall take suitable action, which may include demolition of unauthorized works, sealing of premises, prosecution and criminal proceeding against the offender in pursuance of relevant laws in force. The municipal employees who by their act of commission or omission have allowed unauthorized constructions will be liable for similar action.”*

12. A perusal of Section 262 of the 1976 Act would show that the Commissioner shall sanction the erection of a building or execution of a work unless the same contravenes any provision of Sub-section 2 of Section 262 or the provisions of Section 266. Under Sub-section 2 of Section 262, the sanction of a building or a work may be refused on various grounds, including the ground that the building or work or the use of the site for the building or work or any of the particulars comprised in the site plan, ground

plan, elevation, section or specification would contravene the provisions of any bye-law made in this behalf or of any other law or rule, bye-law or order made under such other law.

12.1 Further, a perusal of Sub-section 1 of Section 269 of the 1976 Act would show that where the erection of any building or execution of any work has been commenced or is being carried on or has been completed without or contrary to the sanction referred to Section 262 or in contravention of any condition subject to which such sanction has been accorded or in contravention of any provisions of the 1976 Act or bye-laws made thereunder; the Commissioner may, in addition to any other action that may be taken under the 1976 Act, may make an order directing that such erection or work shall be demolished by the person at whose instance the erection or work has been commenced or is being carried on or has been completed; within such period (not being less than three days from the date on which a copy of the order of demolition with a brief statement of the reasons thereof has been delivered to that person) as may be specified in the order of demolition. Still further, as per the first proviso appended to Sub-section 1 of Section 269, it is provided that no order of demolition shall be made unless the person has been given by means of notice served in such manner as the Commissioner may think fit, a reasonable opportunity of showing cause why such order should not be made.

12.2 Section 272 of the 1976 Act provides for a 'Completion Certificate' and Sub-section 2 of Section 272 provides that no person shall occupy or permit to be occupied any such building or use or permit to be used any building or a part thereof effected by any such work until permission has been granted by the Commissioner in this behalf in

accordance with bye-laws made under the 1976 Act.

12.3 Now, as per Sub-section 1 of Section 274 of the 1976 Act, it is provided that the Commissioner may by order in writing direct that any building which in his opinion is in a dangerous condition or it is not provided with sufficient means of egress in case of fire or is occupied in contravention of Section 272 be vacated forthwith or within such period as may be specified in the order.

12.4 As per Bye-law 2.145, any erection or re-erection, addition or alteration, which is not approved or sanctioned by the competent authority is unauthorized construction. Further, as per Bye-law 3.14.7, in case of unauthorized development, the authority shall take suitable action, which may include demolition of unauthorized works, sealing of premises, prosecution and criminal proceedings against the offender in pursuance of relevant laws in force. Even the municipal employees, who by their act of commission or omission have allowed unauthorized constructions, would also be liable for similar actions.

13. A collective reading of the above extracted provisions would leave no manner of doubt that the learned Commissioner has the jurisdiction and discretion, in addition to any other action that may be taken under the 1976 Act, to make an order for demolition of erection or work (as the case may be) by the person at whose instance the erection or work has been commenced or is being carried on or has been completed; within such period (as may be specified); including issuance of directions to seal the premises. Point No.(i) is decided accordingly.

Points No.(ii) and (iii):

14. In the present case, the building in question is being constructed

by M/s Sawera Travels (petitioner in CWP-24856-2023) and a portion of the said building has been taken on lease by the Punjab National Bank (petitioner in CWP-25169-2023) vide registered Lease Deed dated 11.08.2023. Although, no specific date is forthcoming on the part of the Bank as to when it occupied the said premises or started its operation, however, from a perusal of the public notice (Annexure P-7), it appears that general public was informed that the Bank would be shifting its Branch to the proposed new site on 31.08.2023 (tentative).

15. It is noticeable that the action on the part of the Bank to hurriedly execute the registered Lease Deed dated 11.08.2023 and the issuance of the public notice for shifting of the Branch and that too without there being any Completion Certificate or Occupancy Certificate having been supplied by M/s Sawera Travels; is apparently after M/s Sawera Travels filed the earlier writ petition, i.e. CWP No.12754 of 2023, which came to be disposed of by this Court vide order dated 02.06.2023 (Annexure P-9 in CWP-24856-2023).

16. Be that as it may, it is evident from the order dated 12.10.2023 (Annexure P-10 in CWP No.24856 of 2023) that the buildings being raised by M/s Sawera Travels has the following violations:-

“The willful violations done by petitioner Mr. Anil Suri C/o Sawera Travels Private Limited are:

- 1. The front setback is not left open according to building Byelaws.*
- 2. There is no provision for parking within the building.*
- 3. Building is constructed against the permissible F.A.R. 1:1.75. On site building is constructed with F.A.R of 1:10 (Approx.).*
- 4. According to building Byelaw 60% coverage is permissible but building is constructed with 100% coverage.*

5. *Owner had constructed building by clubbing two different plans into one unit.*
6. *There is no provision for ramp to basement.*
7. *According to building bye-law, the maximum height limit is 70'-6" whereas on site building is above 100' in height.*
8. *Building is occupied by the Punjab National Bank on ground floor without getting completion certificate from competent authority i.e. Municipal Corporation, Amritsar, which is against the building Bye-laws.*
9. *Owner had applied online building plan for 440 Sq. Yds. which is still pending according to 'Invest Punjab' portal. But construction is done on site without sanctioning for the same.*
10. *For approval of Building plans above 500 Sq. Yds. was to be sent to Chandigarh head office.*
11. *Owner had to inform the Municipal Corporation, Amritsar before starting construction, but there is no documentation regarding this information on record."*

17. Learned counsel for the petitioners (in CWP No.24856 of 2023) have not placed on record any report from any competent architect or engineer to even *prima facie* show that the building has been constructed as per the sanctioned building plans or that the building is in consonance with the provisions contained in the Building Bye-laws, 2018.

17.1 Rather, a perusal of the writ petition (CWP No.24856 of 2023) and also the rejoinder filed on behalf of the petitioner therein, would show that the petitioner has admitted the violations in the building by stating that the petitioner is ready to apply for compounding and sanctioning of the permissible height in due course of law. In paragraph No.2 of the rejoinder, the petitioner has made the following averment:-

"As per as the height and FAR are concerned, the same are compoundable and the petitioner is ready and willing to apply

for the same in due course of law.”

17.2 Further in paragraph No.8 of the rejoinder filed by petitioner (M/s Sawera Travels) in CWP No.24856 of 2023, the following averment has been made:-

“8. That the aforesaid Bank has occupied the said building on the basis that before the petitioner demolished and got his fresh signs site plan sanctioned, the Bank was already occupying the same. There was an agreement between the Bank and the petitioner therefore, on partial completion, the Bank has occupied the building. The petitioner, however, undertakes that he will take necessary steps to evict the Bank till the complete Occupancy Certificate is issued.”

17.3 A perusal of the above extracted para 8 would show that the petitioners in both the writ petitions were working in-tandem with each other.

18. Now, so far as Bank is concerned, it is evident from the perusal of the writ petition (CWP-25169-2023) that at all stages it was a condition precedent laid on behalf of the Bank that M/s Sawera Travels would submit the Completion Certificate for the premises in question. Even as per letter dated 22.03.2023 (Annexure P-5 of CWP-25169-2023), it was clearly stipulated therein that the Completion Certificate of the building should be provided by the lessor (M/s Sawera Travels) from the competent authority before execution of Lease Deed.

18.1 Concededly, there is neither any Completion Certificate obtained by M/s Sawera Travels nor there is any Occupancy Certificate in respect of the portion of the building, wherein the Bank is stated to be in possession. Therefore, the occupation of a portion of the building in question by the Punjab National Bank is wholly unauthorized, being in contravention of Section 262(2) of the 1976 Act.

18.2 In fact, the Bank was very well aware of the fact that the building in question could not have been occupied without the Completion Certificate or Occupancy Certificate; accordingly, the Bank, vide its letter dated 13.10.2023 (Annexure P-13 in CWP-25169-2023) addressed to the Municipal Commissioner, prayed as under:-

“... In light of the same it is most humbly requested that instructions for unsealing of the premises may kindly be issued on immediate basis, so that public is not put to any inconvenience. As a law abiding organisation having a history of around 130 years, we assure you that we would remain on the right side of the law and cooperate for any remedial action required in the matter...”

18.3 Considering the aforesaid request of the Bank, learned Commissioner ordered de-sealing of the Bank premises, on the conditions that the Bank shall be liable for shifting the Branch from the building within a period of 4 weeks (28 days) and inform the Municipal Corporation.

18.4 In my considered view, since the building in question has been constructed in an illegal and unauthorized manner in violation of the norms concerning height, F.A.R. and other violations of Building Bye-laws/1976 Act; and the Bank had occupied the portion of the building without there being any Completion Certificate/Occupancy Certificate, as required under Section 262(2) of the 1976 Act; learned Commissioner was justified in ordering sealing of the property vide order dated 12.10.2023 (Annexure P-10 in CWP-24856-2023). Rather, learned Commissioner, vide letter dated 13.10.2023 (Annexure P-1 in CWP-25169-2023), was magnanimous enough to permit de-sealing of the portion of building where the Bank was operational, for four weeks; in terms of Section 274 of the 1976 Act.

19. Now, as regards challenge to order dated 12.10.2023

(Annexure P-10 in CWP-24856-2023) by M/s Sawera Travels is concerned, suffice it to say that in the said order, the following directions have been issued:-

“Therefore, while deciding the representation following directions are hereby issued to Municipal Town Planner:

- 1. Show cause notice be served upon Sh. Anil Suri C/o Sawera Travels Private Limited as to why the site plan sanctioned on 28/04/2022 not be revoked and fee deposited in this regard be forfeited.*
- 2. Immediate sealing of building.*
- 3. Concerned area Municipal Town Planner should ensure that FIR should be registered against the culprit responsible for the alleged unauthorized and illegal construction in violation of Hon’ble High Court direction within 7 days from receipt of this order.*
- 4. Concerned area Municipal Town Planner should also ensure that any kind of further construction related work must not be carried out on the site by any means and for this purpose an official may be permanently deployed hence to keep an eye over the situation.*

Strict compliance of the above said directions be made by MTP that all notices should be made properly in person as well through registered post and all particulars and violations must be enumerated in the said notices.

From the facts and record of the case it is established that the petitioner has raised the construction in violation of Building Bye-laws as well site plan approved vide Invest Punjab Business First Portal application ID No.2204179373, therefore the petitioner/applicant is also hereby directed to demolish the unauthorized and illegal construction at his own level within 15 days failing which the same will be demolished by the department at your costs.

Representation given by ‘Sawera Travels Private Limited’ (Annexure P-11) is hereby decided accordingly. Copy

of this order be supplied to petitioner by MTP against a proper receipt.”

19.1 A perusal of the aforesaid directions would show that the Municipal Authorities have only taken initial steps to ensure that no further unauthorized construction takes place and M/s Sawera Travels had been afforded an opportunity to demolish the unauthorized and illegal constructions at their own level within the time granted therein.

20. Municipal Authorities have clearly stated in their reply as well as before this Court that before issuing final demolition order, due opportunity of hearing would be afforded to all concerned.

21. In view of the above discussion, I am of the considered view that the learned Commissioner/Municipal Authorities have acted in accordance with law and no interference is required to be made in the impugned order dated 12.10.2023 (Annexure P-10 in CWP-24856-2023) and also the letter dated 13.10.2023 (Annexure P-1 in CWP-25169-2023). Points No.(ii) and (iii) are accordingly decided against the petitioners in both the writ petitions.

22. Resultantly, both the instant writ petitions fail and the same are accordingly, dismissed. The authorities are directed to proceed in the matter in accordance with law, and also the guidelines issued by the Hon’ble Supreme Court in **“Re: Directions in the Matter of Demolition of Structures”, 2025(5) SCC 1**. Relevant extract thereof reads as under:-

“IX. DIRECTIONS

90. *In order to allay the fears in the minds of the citizens with regard to arbitrary exercise of power by the officers/officials of the State, we find it necessary to issue certain directions in exercise of our power under Article 142 of the Constitution. We are also of the view that even after orders of demolition are*

passed, the affected party needs to be given some time so as to challenge the order of demolition before an appropriate forum. We are further of the view that even in cases of persons who do not wish to contest the demolition order, sufficient time needs to be given to them to vacate and arrange their affairs. It is not a happy sight to see women, children and aged persons dragged to the streets overnight. Heavens would not fall on the authorities if they hold their hands for some period.

91. At the outset, we clarify that these directions will not be applicable if there is an unauthorized structure in any public place such as road, street, footpath, abutting railway line or any river body or water bodies and also to cases where there is an order for demolition made by a Court of law.

A. NOTICE

i. No demolition should be carried out without a prior show cause notice returnable either in accordance with the time provided by the local municipal laws or within 15 days' time from the date of service of such notice, whichever is later.

ii. The notice shall be served upon the owner/occupier by a registered post A.D. Additionally, the notice shall also be affixed conspicuously on the outer portion of the structure in question.

iii. The time of 15 days, stated herein above, shall start from the date of receipt of the said notice.

iv. To prevent any allegation of backdating, we direct that as soon as the show cause notice is duly served, intimation thereof shall be sent to the office of Collector/District Magistrate of the district digitally by email and an auto generated reply acknowledging receipt of the mail should also be issued from the office of the Collector/District Magistrate. The Collector/DM shall designate a nodal officer and also assign an email address and communicate the same to all the municipal and other authorities in charge of building regulations and demolition within one month from today.

v. The notice shall contain the details regarding:

- a. the nature of the unauthorized construction.*
- b. the details of the specific violation and the grounds of demolition.*
- c. a list of documents that the noticee is required to furnish along with his reply.*
- d. The notice should also specify the date on which the personal hearing is fixed and the designated authority before whom the hearing will take place;*
- vi. Every municipal/local authority shall assign a designated digital portal, within 3 months from today wherein details regarding service/pasting of the notice, the reply, the show cause notice and the order passed thereon would be available.*

B. PERSONAL HEARING

- i. The designated authority shall give an opportunity of personal hearing to the person concerned.*
- ii. The minutes of such a hearing shall also be recorded.*

C. FINAL ORDER

- i. Upon hearing, the designated authority shall pass a final order.*
- ii. The final order shall contain:*
 - a. the contentions of the noticee, and if the designated authority disagrees with the same, the reasons thereof;*
 - b. as to whether the unauthorized construction is compoundable, if it is not so, the reasons therefor;*
 - c. if the designated authority finds that only part of the construction is unauthorized/non-compoundable, then the details thereof.*
 - d. as to why the extreme step of demolition is the only option available and other options like compounding and demolishing only part of the property are not available.*

D. AN OPPORTUNITY OF APPELLATE AND JUDICIAL SCRUTINY OF THE FINAL ORDER.

- i. We further direct that if the statute provides for an appellate opportunity and time for filing the same, or even if it does not so, the order will not be implemented for a period of 15 days*

from the date of receipt thereof. The order shall also be displayed on the digital portal as stated above.

ii. An opportunity should be given to the owner/occupier to remove the unauthorized construction or demolish the same within a period of 15 days. Only after the period of 15 days from the date of receipt of the notice has expired and the owner/occupier has not removed/demolished the unauthorized construction, and if the same is not stayed by any appellate authority or a court, the concerned authority shall take steps to demolish the same. It is only such construction which is found to be unauthorized and not compoundable shall be demolished.

iii. Before demolition, a detailed inspection report shall be prepared by the concerned authority signed by two Panchas.

E. PROCEEDINGS OF DEMOLITION

i. The proceedings of demolition shall be video-graphed, and the concerned authority shall prepare a demolition report giving the list of police officials and civil personnel that participated in the demolition process. Video recording to be duly preserved.

ii. The said demolition report should be forwarded to the Municipal Commissioner by email and shall also be displayed on the digital portal.

92. *Needless to state that the authorities hereinafter shall strictly comply with the aforesaid directions issued by us.*

93. *It will also be informed that violation of any of the directions would lead to initiation of contempt proceedings in addition to the prosecution.*

94. *The officials should also be informed that if the demolition is found to be in violation of the orders of this Court, the officer/officers concerned will be held responsible for restitution of the demolished property at his/their personal cost in addition to payment of damages.*

95. *The Registrar (Judicial) is directed to circulate a copy of this judgment to the Chief Secretaries of all the States/Union Territories and the Registrar Generals of all the High Courts.*

All State Governments shall issue circulars to all the District Magistrates and local authorities intimating them about the directions issued by this Court.”

23. All pending application(s), if any, shall also stand closed.

24. Before parting, this Court places on record its deep appreciation for the valuable assistance rendered by the learned Amicus Curiae – Mr. Rajeev Anand, Advocate.

25. Photocopy of this order be placed on the file of above mentioned connected case.

03.05.2025

Apurva

(HARSH BUNGER)

JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No