

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 6198/2025

Public Against Corruption

-----Petitioner

Versus

State Of Rajasthan

-----Respondent

For Petitioner(s) : Mr. Poonam Chand Bhandari with
Dr. TN Sharma,
Mr. Abhinav Bhandari,
Mr. Bhupendra Rao,
Mr. Rakesh Chandel &
Ms. Partibha Baress

For Respondent(s) : Mr. Namu Narayan Sharma
Mr. SM Sharma with
Ms. Pooja Sharma &
Mr. Rohan Gupta on behalf of
Mr. Manoj Sharma, AAG

HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJEET PUROHIT

Order

20/08/2025

Issue notice to the respondents.

Mr. SM Sharma, associate of Mr. Manoj Sharma, learned Additional Advocate General accepts notice on behalf of respondents.

Counsel for the petitioner has invited our attention to the order dated 12.03.2025 passed by the UDH, whereby the State Government has directed for regularizing the illegal colonies which have been set up on the land which was originally acquired from the farmers for the purpose of Rajasthan Housing Board. The directions issued in the order dated 12.03.2025 apparently go contrary to the judgment passed by the Hon'ble Supreme Court in

the case of **Rajendra Kumar Barjatya & Anr. Vs. U.P. Avas Vikas Parishad & Ors.**, reported in **2024 INSC 990**, wherein the Hon'ble Supreme Court has observed as under:

"20. In the ultimate analysis, we are of the opinion that construction(s) put up in violation of or deviation from the building plan approved by the local authority and the constructions which are audaciously put up without any building planning approval, cannot be encouraged. Each and every construction must be made scrupulously following and strictly adhering to the Rules. In the event of any violation being brought to the notice of the Courts, it has to be curtailed with iron hands and any lenience afforded to them would amount to showing misplaced sympathy. Delay in directing rectification of illegalities, administrative failure, regulatory inefficiency, cost of construction and investment, negligence and laxity on the part of the authorities concerned in performing their obligation(s) under the Act, cannot be used as a shield to defend action taken against the illegal/unauthorized constructions. That apart, the State Governments often seek to enrich themselves through the process of regularisation by condoning/ratifying the violations and illegalities. The State is unmindful that this gain is insignificant compared to the long-term damage it causes to the orderly urban development and irreversible adverse impact on the environment. Hence, regularization schemes must be brought out only in exceptional circumstances and as a onetime measure for residential houses after a detailed survey and considering the nature of land, fertility, usage, impact on the environment, availability and distribution of resources, proximity to water bodies/rivers and larger public interest. Unauthorised constructions, apart from posing a threat to the life of the occupants and the citizens living nearby, also have an effect on resources like electricity, ground water and access to roads, which are primarily designed to be made available in orderly development and authorized activities. Master plan or the zonal development cannot be just individual centric but also must be devised keeping in mind the larger interest of the public and the environment. Unless the administration is streamlined and the persons entrusted with the implementation of the act are held accountable for their failure in performing statutory obligations, violations of this nature would go unchecked and become more rampant. If the officials are let scot-free, they will be emboldened and would continue to turn a nelson's eye to all the illegalities

resulting in derailment of all planned projects and pollution, disorderly traffic, security risks, etc.”

Prima facie, the circular dated 12.03.2025 is found to be allowing regularization of illegal colonies and encroachments on the public land. Moreover, the purpose for which the land was acquired stands vitiated. Public exchequer would suffer huge loss. We would, therefore, not allow such action.

In view of the above, it is directed that effect and operation of the order dated 12.03.2025 passed by the Government for regularizing illegal colonies set up on the land which was acquired for Rajasthan Housing Board shall remain stayed till the disposal of this PIL.

We also further direct that any encroachments which have been made on the said land, originally acquired for Rajasthan Housing Board, needs to be demolished and removed and proper action also requires to be taken against the concerned officers who allow such illegal constructions.

List after eight weeks.

(SANJEET PUROHIT),J

(SANJEEV PRAKASH SHARMA),J