

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**  
**THE HON'BLE CHIEF JUSTICE MR. MANOJ KUMAR GUPTA**  
**AND**

**THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY**

**Writ Petition (PIL) No.88 of 2025**

**4<sup>th</sup> May, 2026**

Anil Kumar Bisht

-----Petitioner

**Versus**

State of Uttarakhand

----Respondent

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**Presence:-**

Mr. Pankaj Miglani, learned counsel for the petitioner.

Mr. Amarendra Pratap Singh, learned Additional Advocate General along with Mr. Sachin Mohan Singh Mehta, learned Brief Holder for the State of Uttarakhand/respondent no.1.

Mr. Sandeep Kothari, learned counsel for respondent no.2/development authority.

Mr. Arvind Vashisth, learned Senior Counsel assisted by Mr. Ayush Kaushik(through V.C.), Mr. Rachit Manglik and Mr. Siddhant Tiwari, learned counsel for respondent no.3.

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**ORDER:**

1. The facts which emerge out of various affidavits filed by the parties are as follows:

a) Demolition order was passed on 24.08.2020 in respect of the constructions raised by respondent no.3 over the ground floor of the building. In appeal no.12/2019-20, filed by respondent no.3 against the said order, an interim protection was granted to respondent no.3 by order dated 22.09.2020, however, the offending constructions were directed to be kept sealed and respondent no.3 was restrained from raising any further constructions.

b) During pendency of appeal, respondent no.3 filed a compounding application along with her affidavit undertaking to demolish the non-compoundable portion of the building.

c) Acting upon the said affidavit, the development authority passed an order dated 28.12.2022 permitting compounding, subject to deposit of

compounding charges with a condition that non-compoundable portion would be demolished within 40 days of the date of issuance of the order and compliance thereof shall be reported, failing which action would be taken as per the provisions of the U.P. Urban Planning and Development Act, 1973.

2. Learned counsel for respondent no.3 states that after passing of the aforesaid order, the appeal filed against the demolition order was not prosecuted any further and in every likelihood the said appeal stands disposed of as infructuous.

3. The fact which is of significance and which stands admitted is that despite the undertaking given by respondent no.3 that she would demolish non-compoundable portion of the building, the same has not been carried out so far. Respondent no.3 has continued to use the building as a hotel although the initial permission dated 28.07.2017 was for a residential building. It is also an admitted fact that the development authority despite respondent no.3 having not demolished non-compoundable part of the building has not taken any action so far.

4. It is stated in paragraph no.14 of the counter affidavit filed by the Vice-Chairman, Development Authority that now a fresh application has been filed on 23.06.2025 for compounding. It is stated that since the application has not been filed by on-line mode, hence, no proceeding has been undertaken on the basis thereof.

5. Learned counsel for the petitioner tried to show to us that the application even if considered on merits cannot be allowed as under the building bye-laws the minimum area for a building over which a guest house is permissible is 400 square meters whereas in the application submitted by respondent no.3 for compounding in the year 2022, she herself disclosed the total plot area as much less. In

paragraph no.6 of the counter affidavit filed by the development authority the plot area is stated to be 146.88 square meters.

6. The fact remains that in the past a demolition order was passed against respondent no.3 and, thereafter, she herself filed compounding application along with affidavit stating that she would demolish non-compoundable part of the building. The constructions were got compounded on the strength of such undertaking with 40 days' time to demolish the non-compoundable part but the same has not been demolished so far and now under the garb of filing another compounding application, respondent no.3 is trying to avoid the consequence of the undertaking given by her.

7. Even when the appellate court granted interim order in favour of respondent no.3, the offending construction was directed to be kept sealed and she was also restrained from making further constructions and was directed to maintain *status quo*.

8. Undoubtedly, the development authority is sleeping over the matter and there appears force in the submission of learned counsel for the petitioner that the development authority lacks the will to carry out the demolition.

9. In the counter affidavit filed by the development authority, it is stated that the ground floor is in the occupation of some other persons and, therefore, demolition of the upper floors may have adverse impact on the structural safety of the building, consequently, a report of structural safety was sought from the Executive Engineer of PWD on 23.04.2026.

10. It is also stated that on the same date a communication has been sent to the City Magistrate, Haridwar to nominate a Magistrate to carry out the demolition exercise of the non-compoundable part of the building.

11. In paragraph no.22, it is stated that the authority is formulating a SOP for carrying out the actual demolition of the non-compoundable part of the building.

12. Pending the aforesaid exercise, we are of the opinion that the building should forthwith be sealed and compliance report be submitted.

13. Accordingly, we direct the development authority to seal the non-compoundable part of the building forthwith and report compliance.

14. Put up as fresh on 06.05.2026 along with connected matter.

15. Let compliance affidavit be filed by respondent no.2 by the next date.

**(MANOJ KUMAR GUPTA, C. J.)**

**(SUBHASH UPADHYAY, J.)**

Dated: 04.05.2026  
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