

(Govt. of Jammu and Kashmir)  
OFFICE OF THE DIVISIONAL COMMISSIONER KASHMIR

No.Divcom/RA-HW/138)/12/2013.

Dated. 22 .04. 2013

**Subject: - PIL No. 05/2012 titled Human Watch (Regd) international V/S State of J&K and others.**

**ORDER**

Whereas Hon'ble Court has observed that constructions are going on unabated day in and day out in blatant violation of the laws in force, Particularly the provisions of J&K Land Revenue Act, J&K Agrarian Reforms Act and other land Laws.

Whereas the nature of this PIL is of important nature and applicable to entire Kashmir Province.

Whereas the grievance projected in this petition is that Agricultural Land transferred to and vested in tillers under the provisions of the Agrarian Reforms Act. is being converted into residential Housing colonies.

Whereas Hon'ble Court was pleased to pass directions in the case on 29.8.2012 as under:-

" Meanwhile considering the concern projected by the petitioner's learned Counsel that constructions in and around village Suziat, Goripora, Narbal, Badgam, were being raised and filling activities undertaken in violation of the laws in force in the State, we deem it appropriate to direct the Deputy commissioner(collector) Budgam to ensure that the provisions of Section 13 of the Jammu and Kashmir Agrarian Reforms Act and Sections 133-A & 133-B of the Jammu and Kashmir Land Revenue Act were implemented in letter and spirit. The Divisional Commissioner, Kashmir, shall also ensure that no construction was raised in the area aforementioned in violation of the provisions of law referred to herein above."

Whereas Hon'ble Court passed further directions in the case on 12.12.2012 as under:-

- i. The official respondents shall explore the possibility of bringing out some plans in the adjoining area of the city of Srinagar to accommodate the increasing demand for residential place. The other counsel may also indicate their suggestions to Mr. Shah which shall be placed before respondent nos. 1 to 3 (Chief Secretary, Commissioner/ Secretary to Government, Revenue Department and Commissioner / Secretary to Govt. Housing and Urban Development Department) . Such a Course is necessitated in order to avoid illegal activities of colonizing and also to provide planned development with all the facilities which may be in accordance with the rule of law as well as in the interest of the Revenue. Such plan may be placed before the Court on or before the next date of hearing;
- ii. The authorities shall ensure compliance of order dated.29. 8. 2012;
- iii. It was clarified that order dated.29.8.2012 made a mention of only two statutes but it was provided that if violation of any other statute is found the authorities would be within their rights to proceed ;
- iv. If any complaint with regard to violation of the order and undertaking is received then proceedings under the contempt of Courts Act with other coercive methods shall be initiated against the violators;
- v. The order is not to bind respondent No.11 only but would be effective with regard to any other construction in and around village Suzait, Goripora Narbal , Budgam and Srinagar;

Further the Hon'ble Court directed as Under:-

- a. The Deputy Commissioners of all the District's of Kashmir Valley shall stand impleaded as party respondents in this petition. Learned Registrar Judicial ,High Court ,Srinagar , shall prepare copies of this petition and issue notice to all the Deputy commissioners of Kashmir Valley accompanying complete sets of this petition together with copies of the orders so far passed by this Court on this PIL;
- b. The Deputy commissioners shall take identical and similar follow up action with regard to agricultural lands in their respective territorial jurisdictions, including exploring possibility of bringing out some plans to accommodate the increasing populations in their respective Districts on modern lines;
- c. The Deputy Commissioner, Pulwama, is specifically directed to ensure that the usage of the land used for cultivation of saffron (Zaifran) in and around Pampore is not changed in any manner whatsoever and



that the said lands are preserved and reserved for cultivation of saffron (Zaifron) and that no constructions are allowed on such lands;

- d. Respondents 1,2 and 3 and the Divisional Commissioner, Kashmir as also the Vice Chairperson, Srinagar Development Authority, and Commissioner, Srinagar Municipal Corporation, Shall strictly comply with the directions passed by this Court from time to time and ensure that no such constructions are allowed to be raised;
- e. All concerned to comply with the directions passed by this Court and to file their respective status/ Compliance reports by or before the next date of hearing. Any deviation by any functionary of the State as to the directions made shall be viewed seriously;

Therefore , I Divisional commissioner, Kashmir direct all Deputy Commissioners of Kashmir Province, Commissioner SMC, Vice Chairman SDA and SSP's of Kashmir Province as Under:-.

- i. All Deputy Commissioners and SSPs shall follow and Implement the Hon'ble Court directions passed in the case from time to time mentioned hereinabove in letter and spirit.
- ii. That existing helpline numbers of all Deputy Commissioners, Commissioner, SMC, Vice Chairman SDA, Administrators of Town Area Committees and Executive officers of Municipal Committees for the areas within municipal committees and Additional Deputy Commissioners and Assistant Commissioners(Rev) for the areas outside the municipal committee shall be published in Electronic and print media to receive complaints with regard to violation of provisions of The Land Revenue Act and The Agrarian Reforms Act.
- iii. All Deputy Commissioners will formulate a committee in Rural areas consisting of Tehsildar, Naib Tehsildar and SHO who will ensure implementation of Provisions of The Land Revenue Act, The Agrarian Reforms Act and directions passed by the Hon'ble High Court J&K in the matter from time to time. For Urban areas, a committee of Administrator Town area committees, Executive officer of Municipal committees, Tehsildar concerned , Khilafwarzi officer, and SHO will ensure implementation of Provisions of The Land Revenue Act, The

Agrarian Reforms Act and directions passed by the Hon'ble High Court J&K in the matter from time to time.

- iv. All Deputy Commissioners will furnish monthly reports with regard to any violation in the Provisions of The Land Revenue Act and The Agrarian Reforms Act and directions passed by the Hon'ble High Court J&K in the matter from time to time and action taken thereof.
- v. All Deputy Commissioners (District Collectors), Commissioner, SMC, Vice Chairman ,SDA, Administrators of Town Area Committees and Executive officers of Municipal Committee for the areas within municipal committees and Additional District Development Commissioners and Assistant Commissioners (Rev) for the areas outside the municipal committees shall explore the possibility of extending Abadideh land in the areas under their jurisdiction to address the increasing demand for residential place/ colonies. The relevant provisions of The Common Lands Act for extension of Abadideh land for residential purposes can be invoked.
- vi. All Competent Revenue officers shall invoke penal provisions viz section 37, 38, 39 of The Agrarian Reforms Act section 38, 132 and 133 of The Land Revenue Act and Sec.188 of RPC to stop violation of provisions of The Agrarian Reforms Act and The Land Revenue Act, Action can also be initiated under Section 133 of Cr.P.C. After finding any conversion going on , section 144 Cr.P.C can be invoked for stopping labour and mason to continue with work. If need arises section 145 Cr.P.C can also be utilized.
- vii. All Deputy Commissioners shall ensure submission of compliance reports before the Hon'ble Court during this week positively. A separate status report has already been asked vide this office No.



Div.com /RA- HW/(138)2012 dated 29.9.2012. For the compilation of status report, all Deputy Commissioners of the Kashmir Division should immediately ask each and every Patwari to conduct special Girdawari to prepare list of such Khasra numbers alongwith the name of owner possessor, village name etc where conversion has taken place. For conduct of special Girdawari in the matter, the Revenue Secretary, Govt. of J&K is being requested separately for issuance of appropriate orders.

**Sd/-  
Divisional Commissioner  
Kashmir.**

Copy to the:-

1. All Deputy commissioners of Kashmir Division for information and n/a.
2. Commissioner, S.M.C for information and n/a.
3. Vice Chairman, SDA for information and n/a .
4. All SSP's of Kashmir Division for information and n/a.

**Divisional Commissioner  
Kashmir.**

22/4/13