



2026:AHC-LKO:15817-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 2148 of 2026

Mamoon Rasheed

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. (Nagar Vikas)
Lko. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Harish Chandra
Counsel for Respondent(s)	:	C.S.C., Hemendra Kumar Bhatt

Court No. - 1

**HON'BLE RAJAN ROY, J.
HON'BLE ABDHESH KUMAR CHAUDHARY, J.**

1. Heard.

2. By means of this writ petition, the petitioner has prayed for the following main relief (s) :-

"(i) Issue a writ, order or direction in the nature of mandamus commanding the opposite party no.2 to 4 to remove the illegal commercial structure which is raised by the opposite party no.5 over the resident plot (31x6), Mohalla Nai Bazar, Dakshini, Mahmoodabad, Sitapur."

3. The contention of the petitioner's counsel is that the commercial complex was constructed by the opposite party no.5 illegally, whereas the map, which was sanctioned, was for a residential purpose. Being aggrieved, the petitioner filed a petition bearing Writ-C No. 2084 of 2025, which was decided on 03.11.2025 in the following terms:-

"Heard learned counsel for the petitioners and learned counsel for the respondents."

Writ-C No. 2084 of 2025 has been filed by the petitioner, Mamoon Rasheed praying for quashing of the impugned map sanctioned by respondent no. 4, the Executive Officer, Nagar Palika Parishad, Mahmoodabad, District Sitapur, in favour of respondent no. 5, Raj Kumar Gupta for construction of a building and for issuance of a writ of mandamus restraining respondent no. 5 from making any commercial construction over the land in question."

The said writ petition was taken up as fresh on 04.03.2025, wherein this Court directed respondent no. 4, Executive Officer, Nagar Palika Parishad, Mahmoodabad, District Sitapur, to file an affidavit indicating the circumstances in which the map of a commercial building had been sanctioned by the Parishad in a residential area in favour of respondent no. 5.

The Court also directed respondent no. 4, Executive Officer, Nagar Palika Parishad, Mahmoodabad, District Sitapur, to appear through video conferencing. The Court was informed that respondent no. 4 had stayed the construction in pursuance of such order and this fact was noted by the Court on 09.04.2025. The Court further noted that the application made by respondent no. 5, Raj Kumar Gupta, was for construction of a residential building. There was nothing in the application indicating that he proposed to construct a commercial structure. The report submitted to the Executive Officer was also for construction of a residential nature. However, later on, Raj Kumar Gupta raised three shops over the said land, which was impermissible and contrary to the sanctioned map. A direction was, therefore, issued to respondent no. 5, Raj Kumar Gupta, to file an affidavit justifying the construction of commercial nature on a map sanctioned for a residential area.

Shri Manendra Nath Rai, learned counsel appearing on behalf of respondent no. 5, Raj Kumar Gupta has referred to his affidavit filed in the said writ petition indicating that he had purchased the land measuring 31 x 6 feet from its erstwhile owner through a registered sale deed and at the time of the sale deed, one shop already existed there, though it was in a dilapidated condition. The petitioner demolished the said dilapidated structure and applied for sanction of a map for construction. The map was sanctioned on the basis of the report dated 01.02.2025, on 03.02.2025. However, after the writ petition was filed by the petitioner, Mamoon Rasheed, a cancellation order was passed on 17.03.2025 without notice being issued to Raj Kumar Gupta proposing such cancellation. Learned counsel has referred to Sections 178 to 186 of the U.P. Municipalities Act, 1916, wherein provision is made for issuance of notice before such cancellation.

Shri Manendra Nath Rai, learned counsel, has also referred to Writ Petition No. 4768 of 2025 filed by Raj Kumar Gupta, praying for quashing of the order dated 17.03.2025, by which the building plan of Raj Kumar Gupta was cancelled without issuance of notice to him.

Learned counsel appearing for Nagar Palika Parishad, Mahmoodabad has informed the Court that initially an application was made by Mamoon Rasheed to respondent no. 4, Executive Officer, Nagar Palika Parishad, Mahmoodabad, District Sitapur stating that Raj Kumar Gupta was raising unauthorized

construction without getting the map sanctioned. A notice was issued to Raj Kumar Gupta on 28.11.2024. After such notice, Raj Kumar Gupta filed an application for sanction of a map. A report was submitted by the relevant section stating that Raj Kumar Gupta proposed to raise residential construction. On the basis of such report, the building map was sanctioned on 03.02.2025. However, Mamoon Rasheed, being aggrieved, filed Writ-C No. 2308 of 2025, and after this Court passed an order on 04.03.2025, the building map of Raj Kumar Gupta was cancelled on 17.03.2025.

It is apparent from a perusal of the papers on record in both writ petitions that no notice was given by respondent no. 4, Executive Officer, Nagar Palika Parishad, Mahmoodabad, District Sitapur to Raj Kumar Gupta before cancelling his building map sanctioned on 03.02.2025.

Accordingly, the order dated 17.03.2025 passed by respondent no. 4, Executive Officer, Nagar Palika Parishad, Mahmoodabad, District Sitapur, is set aside, with a direction to respondent no. 4 to issue a notice to Raj Kumar Gupta within ten days, as required under the rules, proposing cancellation of his sanctioned map.

Raj Kumar Gupta shall submit his explanation along with relevant documents within two weeks from the receipt of such notice.

The appropriate authority shall thereafter pass a reasoned and speaking order within a further period of three weeks thereafter.

Both writ petitions stand disposed of."

4. In pursuance to the aforesaid, proceedings for cancellation of the sanctioned map were undertaken and the map has been cancelled on 07.01.2026.

5. The grievance is that in spite of the aforesaid, the complex already constructed has not been demolished.

6. On being confronted, Shri H.K. Bhatt, counsel for the Nagar Palika Parishad, Mahmoodabad, District Sitapur submits that the owner had been asked to undertake demolition of the complex which he has not done. Therefore, now proceedings will have to be drawn under Section 185 of the Uttar Pradesh Municipalities Act, 1916. He also informed that the order by which the sanctioned map was cancelled has not been put to challenge by the opposite party no.5.

7. Without expressing any opinion on merits of the matter, if there is a cause for initiating proceedings under Section 185 of the Uttar Pradesh Municipalities Act, 1916 in view of the action taken consequent to the earlier orders passed by this Court, then, the Nagar Palika Parishad shall proceed accordingly as per law and take such action as may be desirable and required in law.

8. If nothing happens within the next three months, it shall be open for the petitioner to approach this Court again.

9. This order is being passed without prejudice to the rights, if any, of the opposite party no.5 to whom we have not issued any notice, and it shall be open for him to take such plea and raise such objections as may be permissible in law before the concerned authority, as and when the proceedings are initiated under Section 185 of the Uttar Pradesh Municipalities Act, 1916.

10. With the aforesaid observation, petition is **disposed of**.

**February 26,
2026**

Praveen

(Abdhesh Kumar Chaudhary,J.) (Rajan Roy,J.)