
(2000) 07 DEL CK 0067

In the Delhi High Court

Case No : CW.No. 100/98

Bhim Singh

APPELLANT

Vs

Union of India and Another

RESPONDENT

Date of Decision : 26-07-2000

Acts Referred:

Citation : (2000) 55 DRJ 57

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : Mr. B.S. Billauria, for the Appellant; Mr. Viraj R. Dattar, for the Respondent

Judgement

Manmohan Sarin, J

1. Rule.

With the consent of the parties, petition is taken up for disposal.

The petitioner has filed this writ petition impugning the notice issued under Sub Section- 1 Clause-b of Section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971. Petitioner also seeks a declaration that the guide-lines by the Cabinet Committee for accommodation dated 10.10.1996 and 19.6.1997 be declared as illegal being vocative of the fundamental rights of the petitioner. Petitioner also seeks a further direction to allot an accommodation to the petitioner as per the report of the Public Accounts Committee of the Lok Sabha.

2. The relevant facts of the case may be briefly noted:-

(i) Petitioner is the President of Jammu and Kashmir Nationalists and Patriotic Panthers Party. He is a political activist from Jammu and Kashmir and a Former Legislator. Petitioner claims to have devoted his entire life in fighting terrorism and militancy in Kashmir valley. It is claimed that his contribution in this regard has been duly recognised by the political leaders at the national level.

(ii) The petitioner had, accordingly, been allotted suite No. 4 and servant Quarter No. 42, Vithal Bhai Patel House, Rafi Marg, New Delhi in 1992. The said allotment is stated to have been cancelled vide a notice dated 3.10.1994. Petitioner states that he represented against the arbitrary cancellation. As a result, based on the directions given by the Prime Minister, the petitioner continued with his occupation and status-quo with regard to the said premises was maintained.

(iii) Petitioner was provided with "Z" security cover. One of the grievances of the petitioner is that on a correct perception, he would be entitled to "Z+" security category. However, the respondents have not done justice to him in this regard and he continues to be in the "Z" category. The respondents are stated to have issued notices to quit dated 7.3.1997 and 21.8.1997. A show cause notice was also issued on 10.11.1997, which is the impugned notice.

(iv) During the course of proceedings in the writ petition, the petitioner claimed that several persons, who were having "Z" category security cover were provided with government accommodation. While the respondents were discriminating against the petitioner by seeking to evict him.

3. An interim order was passed on 9.1.1998, directing that the Estate Officer would not pass any final order. Vide another interim order dated 28.1.1999, the petitioner was required to pay a sum of Rs. 2,00,000/- (two lacs) without prejudice to the rights and contentions of the parties towards the arrears for occupation.

4. The petitioner, who had appeared in person as well as through Mr. B.S. Billauria urged before me that in view of the services rendered by the petitioner towards national, integration and fighting militancy and terrorism in Kashmir, he ought to be provided with "Z+" security and the accommodation allotted to him was liable to be upgraded. It is also urged that the Government has been following a policy of pick and choose by allowing persons with "Z" category and "Z+" category to continue with accommodation, while proceeding against the petitioner for eviction have been initiated. Accordingly, petitioner urges that he is being discriminated against. The submission is mis-conceived. Article 14 of the Constitution of India has no application when action is taken by the authorities to remove one wrong, merely on the ground that no action has been taken to remove the other wrongs. A wrong decision in favor of one person does not entitle any other person to claim benefit on the basis of the said wrong decision. Reference is invited to the observations of the Division Bench of this Court in Anil Kumar Khurana Vs. MCD 1996 1 AD (Del) 749. The Division Bench, while repelling the plea of discrimination under Article 14 of the Constitution of India observed as under:

"The plea of discrimination cannot be put forth when the law is given effect to. The denial of illegal favor cannot amount to discriminatory treatment vocative of principles of equality clause enshrined in Article 14 of the Constitution. A wrong decision in favor of one person does not entitle any other person to claim benefit

on the basis of the said wrong decision. In short, there cannot be a right to be illegally favoured on the ground that others have been so favoured."

5. Learned counsel for the respondent has urged that the security cover for the petitioner was reviewed in December, 1998 and it was assessed as "Z". Learned counsel submits that policy decision taken by the Central Government is that those with "Z" category security cover would not be entitled to government accommodation. In fact the present position is that even those having "Z+" security cover are not entitled to government accommodation. Only those, who are entitled to security under Special Protection Group Act, are entitled to government accommodation. An affidavit in support of this has been filed by the respondents dated 10.7.2000, setting out this position. It has been averred in the affidavit that the provision of government accommodation has in fact being delinked from consideration of security except in the case of those falling under the ambit of Special Protection Group Act. It has also been decided that license for premises allotted to "Z+" security cover persons be revoked. Licensees are being directed to vacate the premises in their occupation. It is also claimed that a sum of Rs. 3,26,965/- is outstanding against the petitioner up to 30.6.2000 and a statement of account has also been annexed with the said affidavit.

6. From the foregoing discussion, it is clear that the petitioner, who is only holder of "Z" category security cover, would not be entitled to government accommodation. This is especially so when even "Z+" category, cover holders are also being asked to vacate. Accordingly the challenge to the notice of termination on the ground of the petitioner continuing to hold "Z" security cover must fail and is rejected. The ground of a particular category of security cover or its upgradation are matters essentially in the domain of the concerned government agencies and this is not a matter in which the court would interfere. There is also no merit in the contention that the policy decision by the Central Government to delinked the provision of government accommodation with the security cover except in the matter of those entitled to S.P.G. Protection is vocative of the fundamental rights of the petitioner. The respondents shall be free to proceed with the proceedings under the Public Premises (Eviction of Unauthorised Occupants), Act 1971 and for eviction and to recover damages, if any, as per law. The amount paid by the petitioner in these proceedings would be subject to adjustment.

The writ petition has no merit and is dismissed.