
(2006) 06 DEL CK 0040
In the Delhi High Court
Case No : WP (C) 7026 of 2001

B.K. Mathur and Others

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 02-06-2006

Acts Referred:

Constitution of India, 1950 — Article 226

Government of India (Transaction of Business) Rules, 1961 — Rule 6(1)

Citation : (2006) 90 DRJ 536 : (2006) 4 RCR(Civil) 621 : (2006) 2 RCR(Rent) 461

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : V.P. Chaudhary, G. Tushar Rao and N. Chaudhary, in WPC 7026/2001 and Anil Nauriya and Sumita Hazarika, in WPC 3446/200, for the Appellant; R.V. Sinha, for the Respondent

Final Decision : Dismissed

Judgement

Manmohan Sarin, J.—By this common judgment, the above three petitions filed by Journalists, Cameramen, Correspondents, Editorial Consultants, Reporters and others who were allottees of Government accommodation under the Press Pool are being decided. The petitioners are aggrieved by the guidelines which came into force on 8th March, 2001 regarding allotment of accommodation to accredited journalists and press-cameramen. Petitioners assailed notices dated 16th April, 2001 issued pursuant to the Guidelines requiring them to vacate the premises allotted to them by 15th October, 2001 i.e within a period of six months. Petitioners challenge the said guidelines on various grounds enumerated in the writ petitions and seek quashing of the notices and the proceedings initiated under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. A mandamus is also sought for the allotment to the petitioners being continued in terms of the existing guidelines.

2. As regards interim orders in WP(C) 7026/2001, a statement was made by the

counsel for the respondent that no final orders were to be passed while the eviction proceedings could go on. In WP(C)7491/2001, it was directed that in case any eviction order is passed, same would not be given effect to. In WP(CO 3446/2002, a similar statement was made by the respondent that petitioners would not be evicted pursuant to any eviction order. Matters had been adjourned from time to time at the instance of both the parties. In August, 2004, it was stated that the entire policy was under reconsideration by the Government. As this impasse continued till November, 2004, the matters were released from part heard by the Bench and it was transferred to a bench as per the roster. Subsequently in March, 2005, it was intimated that there is no review of the policy and the matters were reassigned to this bench. Arguments were again heard and judgment was reserved.

3. At the outset, it may be noticed that allotment to various petitioners in the writ petitions was on license basis. In terms of the allotment letters, license is terminable and the period for which allotment was made, has also expired. Pursuant to the new guidelines that came into force on 6th April, 2001, notices were issued to the petitioners giving them six months time to vacate the premises which has also expired. Either the eviction orders have not been passed where there was a stay of passing of final order or where orders were permitted to be passed, same have not been enforced as a result of the stay. This is the position across the spectrum in these cases.

4. Let us consider the challenge of the petitioners to the new guidelines and to the proceedings initiated pursuant thereto which are described as illegal and without jurisdiction.

5. The revised guidelines were approved by the Cabinet Committee on Accommodation in its meeting on 8th March, 2001. The revised guidelines inter alia provide that press pool would consist of 75 units and the duration of allotment shall be five years for Category-I Journalists i.e journalists drawing emoluments up to Rs.7000/- and three years for Category-II Journalists i.e journalists drawing emoluments above Rs.7000/- p.m to Rs.15000/- p.m. The allotment was to be for the above periods or till attaining the age of 65 years whichever was earlier. Accommodation was restricted to Type-IV . Journalists who own house or flats would not be eligible for allotment of government accommodation. Non eligible journalists were to be allowed six months to vacate the premises-four months at normal rent and two months on double the rent. Where a person became ineligible due to change of rule, retention of six months was to be allowed. In pursuance to the revised guidelines as approved by the Cabinet Committee on Accommodation, notices were served on the journalists directing them to vacate the accommodation by 15th October, 2001. Since the period of allotment had already expired long back, a Screening Committee was directed to be constituted to consider cases of allotment of Government accommodation to Journalists from the Press Pool on vacation by the existing allottees.

6. In the meantime, in another meeting of Cabinet Committee on Accommodation held on 8th October, 2001, following guidelines were framed:

- (a) The Press Pool shall now consist of 100 units.
- (b) Journalists will be divided into the following two categories for the purpose of allotment of Government accommodation from Press Pool.
 - (i) Journalists drawing emoluments up to Rs.10,000/- per month (excluding conveyance allowance)-Category-I; and
 - (ii) Journalists drawing emoluments between Rs.10,001/- and Rs.20,000/- p.m. (excluding conveyance allowances)-Category-II.
 - (iii) Journalists drawing emoluments up to Rs.10,000/- p.m. may be allotted Type- IV accommodation and Journalists drawing emoluments between Rs.10,001 to 20,000 p.m. may be allotted accommodation in Type IV-Special.
- (c) There will be no age bar for allotment of Government accommodation from Press Pool. The duration of allotment shall be 5 years for Category-I; and 3 years for category-II.
- (d) Only those journalists/press-cameramen who do not own a house/flat as an owner or a holder of power of attorney in his name or name of any family member or a dependent in the NCT of Delhi only.
- (e) Ministry of Information and Broadcasting will nominate four journalists as members of the Screening Committee.

7. It was stated that pursuant to the above guidelines, the Screening Committee recommended 16 cases of journalists and 8 press cameramen for allotment of Government accommodation.

8. Reference may be invited in this connection to the judgment of the Supreme Court in *Shiv Sagar Tiwari Vs. Union of India and others*, . The Supreme Court after fully considering the case as represented by Free lancers and others and the views of the Government of India in the submission of Addl. Solicitor General, accepted the views of Press Council of India. The court noted the recommendations of the Press Council of India and approved the same in the following terms:

- (1) The accommodation will be given by the Government from the Press Pool only to the accredited journalists and news cameramen. Accredited journalists/news cameramen will mean journalists/news cameramen accredited by the Central Press Accreditation Committee. These would not include: (i) those accredited journalists/news cameramen whose total emoluments exclusive of the conveyance allowance exceed Rs.15,000/- p.m.; (ii) accredited editors or editors-cum-correspondents; (iii) Free lance journalists; (iv) journalists engaged on contract basis; and (v) accredited correspondents who are not Indian Nationals and/or who do not represent the India Media.

(2) Those owning a house or flat, either as an owner or as a holder of power of attorney, in his/her name or in the name of the family member or dependent in the National Capital Territory of Delhi or Noida, at the time of the allotment of accommodation from the pool.

9. It also approved the division of accredited journalists into two categories namely those who are drawing income up to Rs.7000/- per month and those drawing income from Rs.7001 to Rs.15,000/- per month. It is the respondents' case that the current guidelines of 8th October, 2001 are based on the views of the Press Council of India as approved by the Supreme Court.

10. Let us consider now the grounds on which the petitioners have sought to challenge the present guidelines. Mr. V.P.Chaudhary, learned senior counsel for the petitioners submits that between June, 1992 till August, 2002, there was hardly any allotment of accommodation from the Press Pool to any accredited journalist although half of the units earmarked to the Press Pool were at all times available for allotment. It is urged that even though originally Press Pool was intended to be increased to 120 units, in April, 2001, it was reduced to 75. Only 25 journalists were allotted accommodation from the Press Pool prior to 21.8.2002. Out of these 25, 13 are said to be present petitioners. Even if the current allotment is taken into consideration, the total would come to 67 and there would still 33 units left for allotment. It is submitted that out of the quota of 100 units in the Press Pool, only 46 stand allotted at present and another 54 units are still available for allotment. Counsel urges that Therefore the argument that the present journalists are depriving others who are in queue is devoid of any substance and is without any factual foundation. In these circumstances, the initiation of proceedings against the petitioners when there are still sufficient number of units available for allotment to journalists, is nothing but harassment to bonafide journalists in pursuit of their vocation and it smacks of malafides.

11. The above submission though attractive on the first flush, cannot stand judicial scrutiny. The present petitioners indisputably do not have any vested right to continue with the accommodation allotted, irrespective of availability of premises in the press pool for allotment. Availability of accommodation in the press pool does not confer a right to retain the accommodation in perpetuity contrary to the guidelines.

12. Coming now to the challenge to the revised guidelines as noted above, the present guidelines are based on the views submitted by the Press Council of India and as approved by the Supreme Court of India in Shiv Shankar Tiwari's case (supra). Besides it cannot be said that guidelines as framed are arbitrary, discriminatory or ultra virus the Constitution. The mere fact that even after the recent allotment by the Standing Committee, there are slots open, does not provide right to the present petitioners to continue their possession in perpetuity. There has been a manifold expansion in media activities. In fact with the advent of television, electronic media and information technology, there is a world wide flow of information and news many times over then in the past. This would entail

increase in the demand and requirement of media persons normally. However, the petitioners contend that there are slots still available for allotment of accommodation from the Press Pool. Same would indicate laxity either in processing of eligible cases or awareness of knowledge about the availability of such accommodation. In any case, as noticed earlier, availability of these slots does not confer upon the present petitioners right to continue their possession in perpetuity. Again, if for some reasons, Union finds allocation of Press Pool to be excessive, then it is for the Union to consider whether the allocation of 100 units needs a review. However, the same by itself cannot be used as a ground by those who have already enjoyed the benefit of Government accommodation for more than the allotted term and which is in excess of the criteria presently proposed and as approved by the Supreme Court.

13. The next plank of the petitioners' submission is that when the guidelines were originally formulated in 1954, decision was taken by the Cabinet. The decision to scrap the proposal in 1976 was also a Cabinet decision so also the decision to revive the Press Pool on 1st April, 1977. The review of the guidelines was also undertaken by the Cabinet in its meeting on 9th May, 1990. In short, the submission is that guidelines could be revised or reviewed only by the full Cabinet and not the Accommodation Committee of the Cabinet. Learned senior counsel for the petitioners submitted that Memorandum of 4th November, 1999 issued by the Cabinet Secretary on which reliance is placed by the respondents was merely conveying the approval of the Prime Minister to reconstitute some Cabinet Committees. It is pursuant to the said decision that the Cabinet Committee on Accommodation was formed. He urged that Committee of Accommodation constituted with the approval of the Prime Minister, cannot revise the guidelines approved by the full Cabinet. It was also submitted that the Press Pool constitutes a special category and does not fall in the category of out of turn allotment which was the subject matter before the Supreme Court.

14. The constitution of the Standing Committees of the Cabinet and their functions is by virtue of powers exercised by the Prime Minister under Sub-rule (1) of Rule 6 of the Government of India (Transaction of Business) Rules, 1961. It is not merely an executive decision taken by the Prime Minister rather the First Schedule of the said Rules is amended by which functions have been assigned to the Cabinet Committee on Accommodation. It would be relevant to produce an extract from the order dated 5th December, 2002:

2. Cabinet Committee on Accommodation:

(i) To determine the guidelines or rules and terms and conditions to govern out of turn allotment of Government accommodation;

(ii) to decide upon allotment of Government accommodation to various categories of non-eligible persons and organisations and rate of rent to be charged from them;

(iii) to consider the question of allotment of accommodation from the General

Pool to the Members of Parliament.

15. Various categories of citizens namely eminent persons, social workers, journalists and others are allotted Government accommodation.

16. The Supreme Court in Shiv Sagar Tiwari's case (supra) while dealing with out of turn allotment cases has also considered the question of allotment to Journalists. It accepted the views of the Press Council of India as noted earlier. If the phrase out of turn allotment was to be narrowly construed and applied only to Government Servants then the case of Journalists could fall in category (II) of Allotment of Government accommodation to various categories of non-eligible persons and organizations. This would fall again within the purview of Cabinet Committee of Accommodation.

17. Learned Counsel for the respondents have demonstrated on record that various decisions in the past regarding increase or decrease in the number of units in the Press Pool have also been taken by the Special Committee of Cabinet or Cabinet Committee on Accommodation (in short 'CCA'). It was the decision of CCA in 1972 that certain categories were specified as being ineligible and accredited journalists were not allotted accommodation. Again in 1978, it was the CCA which decided that accredited Press Correspondents occupying accommodation but owning houses in Delhi either in their own name or in the names of their family members are to be governed by the principles similar to those governing house owning Government servants. CCA again revised the guidelines in 1981. Similarly revision by CCA was done on 9.5.1990.

18. From the foregoing, it would be seen that it has been the Cabinet Committee of Accommodation which has been taking decisions with regard to changes regarding increase or decrease in the Press Pool or to lay down the criteria of eligible and accredited journalists or criteria with regard to entitlement of accommodation. This is being done pursuant to the powers delegated under the Government of India (Transaction of Business) Rules, 1961 by the Prime Minister and thus same does not suffer from any infirmity or lack of jurisdiction. Given the facts and circumstances of the present cases, as noted earlier, I am of the view that the plea of the petitioners that it is only the Cabinet which could have revised or made change in the Press Pool accommodation and not the Cabinet Committee of Accommodation even otherwise does not deserve to be entertained in the exercise of discretionary powers under Article 226 of the Constitution of India.

19. We may also notice that many of these petitioners have given an undertaking for vacating the premises. Period of five years has elapsed from the time proceedings were initiated during which the petitioners have continued to occupy the premises.

20. Learned Counsel for the petitioners has placed reliance on M/s. Ugar Sugar Works Ltd. Vs. Delhi Administration and Others, and Union of India and Others Vs. Dinesh Engineering Corporation and Another etc., to urge that arbitrariness,

irrationality, perversity and malafides can render a policy unconstitutional. As noted earlier, we are not persuaded that there is any arbitrariness, irrationality or perversity in the revised guidelines framed on the criteria approved by the Supreme Court. Hence the above and other judgments cited with regard to grant of largesse's and on the doctrine of legitimate expectation would not advance the petitioners case. In these circumstances, I find that petitioners have failed to make any ground for interference in the exercise of writ jurisdiction. Writ petitions are accordingly dismissed. Interim orders passed stand vacated.