

(1993) 03 SHI CK 0005

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 56 of 1993

Court on its own motion

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 05-03-1993

Acts Referred:

Citation : (1993) 1 ShimLC 336

Hon'ble Judges : Bhawani Singh, Acting C.J.; L.S. Panta, J

Bench : Division Bench

Advocate : Rajiv Sharma, for the Appellant; Om Parkash, A.A.G., for the Respondent

Judgement

Bhawani Singh, A.C.J.

1. The Petitioner was posted as Additional District and Sessions Judge, Nahan. No Government accommodation was available. He wrote to the Deputy Commissioner, Nahan, on 31st January, 1989 for the allotment of residential accommodation or requisition of some private house for him. A suitable house was selected by the Petitioner and the Deputy Commissioner as well as the Executive Engineer were requested to issue N.O.C./R.R.C. for the said accommodation. The house was occupied by the Petitioner on 7th February, 1989 and the Deputy Commissioner was also informed about it. Willingness of the landlord was also sent vide letter dated 6th February, 1989 (Annexure-E) The Executive Engineer, vide his letter dated 2nd March, 1989 sought some relevant documents which were also sent to him vide letter dated 16th March, 1989 and 30th May, 1989 (Annexures F and G).

2. The Deputy Commissioner was requested by the Additional District and Sessions Judge, Nahan, for the issuance of N.O.C. which was issued vide orders dated 6th June, 1989 and 12th June, 1989 (Annexures I and J). The rent of the house so occupied by the Petitioner was assessed by P.W.D. authorities at the rate of Rs. 1,477 (Annexure-K). This Court was informed vide letter dated 16th

June, 1989 for budget allocation under the head "Rent Rate and Taxes" at the rate of Rs. 1,477 (Annexure L). The Petitioner got copy of letter dated 23rd June, 1989 from this Court informing him that according to the Finance Department, house rent at the rate of 10% was payable. The Petitioner represented against it vide letter dated 8th July, 1989 (Annexure-M) The Petitioner further states that he was advised vide letter dated 21st August, 1989 to move a case for requisitioning of the house through District and Sessions Judge (Annexure-N). The District and Sessions Judge wrote letter dated 29th August, 1989 to the Deputy Commissioner for the requisitioning of the house (Annexure-O). The case was moved to the Secretary (GAD) by the Deputy Commissioner vide letter dated 19th September, 1989 for guidance and permission to requisition the house (Annexure-Q). This was not approved by the Secretary (GAD)(Annexure-R).

3. The Petitioner further submits that fair treatment has not been meted out to the officers belonging to the State Judicial Service as compared to the State Administrative Service in the allotment of accommodation. The Petitioner has cited many examples where private accommodation was allotted to Executive Officers by requisitioning the same.

4. The Petitioner has informed the Court that he has been compelled to pay the rent to the landlord from his pocket although he is entitled to rent-free accommodation. It is also his case that no deduction of any kind can be made from out of his salary towards the rent payable to the landlord since it is the duty of the State Government to provide him rent-free accommodation. Through communication dated 18th December, 1992, the Petitioner has stated that he has already paid a sum of Rs. 7,000 to the landlord towards the rent vide different cheques and had not drawn any amount from the treasury in lieu of rent from the treasury to which he is otherwise entitled

5. The facts narrated above disclose a very sorry state of affairs. A Judicial Officer of the rank of Additional District and Sessions Judge (now, District and Sessions Judge, Chamba Sessions Division) has been put to enormous difficulties for residential accommodation. The District Administration not only failed to provide Government accommodation but did not take prompt steps to requisition/ acquire any other private house to accommodate him. It was the Petitioner who had to go to private landlord and seek the accommodation in question. He moved number of communications, reminders/representations to seek accommodation, but it is pity that nothing has been done and the District and Sessions Judge is paying the rent from his own pocket in order to avoid embarrassment from a private landlord.

6. It would be relevant to quote para-2 of office communication dated 28th December, 1992:

In this regard it is submitted that I have already paid a sum of Rs. 7,000 to the landlord towards the rent vide three different cheques and had not drawn any

amount from the Treasury in lieu of the rent free accommodation to which I am entitled.

7. It is high time that the Government looks to the residential requirements of the Judicial Officers in the State. It is worth pointing out that many of the Judicial Officers have not been provided official accommodation at all. They have hired private accommodation from local landlords with great difficulties. They are leading quite a miserable life. Many of them are living in transitory accommodation waiting for the allotment of Government accommodation for the last many months. Some have hired accommodation at far-off places from the Court premises. Despite all these difficulties, we are happy to record that they are doing their best in the discharge of their judicial functions. We hope and trust that the State Government will definitely look into this aspect and take prompt steps to eradicate this serious problem. It would be desirable to create a separate zone/pool for the Judicial Officers at every place in the State where Courts are located so that accommodation is promptly available to the Judicial Officers and they are not compelled to move about and locate other private accommodation or be at the mercy of those who do not feel inclined to co-operate by unique sense of self-aggrandizement.

8. In the present case, the District and Sessions Judge is entitled to rent-free accommodation. It is the duty of the State Government to provide him the same and pay him all the rents settled with the landlord. We quote the observations of the Apex Court reported in *All India Judges' Association Vs. Union of India and others*, :

33. Provision of an official residence for every judicial officer should be made mandatory. A Judicial Officer to work in a manner expected of him has to free himself from undue obligations of others, particularly owners of buildings within his jurisdiction who ordinarily may have litigations before him. This is mostly the case in rural areas where outstation judicial Courts are located. We are aware of cases where a rural Court is located in the building belonging to a lawyer or a client. Even the residential accommodation of the Judicial Officer belongs to people of that category. Such a situation often gives occasion to personal embarrassment to the Judicial Officer and it has to be avoided.

34. * * * *

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It is absolutely necessary that appropriate conditions should be provided for the judicial officers and he should have reasonable mental peace in order that he may perform his duties satisfactorily. Rendering justice is a difficult job. It is actually a divine act. Unless the judicial officer has a reasonably worry free mental condition, it would be difficult to expect unsoiled justice from his hands.

Further in para-35, the Court said:

35. Very often building projects are undertaken for providing residential

accommodation to public officers but the requirement of the judicial officer is not taken into account for one reason or the other. Control of the State purse is in the hands of the executive. As appropriate share of construction expenses is not being provided towards accommodation of judicial officers, they do not have any quota in the building projects. As a result of this over the years at several places throughout the country residential accommodation for judicial officers has turned out to be scanty. Many judicial officers dread postings in Metropolitan towns as residential accommodation is not available and the rental would be exorbitant in respect or private accommodation. The cost of living also becomes heavy.

Again, in para 36, the Court said:

36. * * * *

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As a long term measure, Government accommodation should be constructed to meet the need of the judicial officers at their respective stations. This should be a matter for the Planning Commission to review and the State Government to co-operate and undertake construction activity. The Governments of the States and the Union Territories would take sometime to implement this part of the direction. In case for some reason, the Planning Commission does not come forward to take up the matter before January, 1992, the Chief Justice of every High Court should set up a Committee with him as Chairman where two senior Judges of the Court and the Secretaries of Finance, Law and Works should be members and annual planning of construction of residences should be made We accordingly fix the outer limit of December 31, 1992 when this part of the direction would become fully operative.

9. We, therefore, direct that Respondents Nos. 1 and I will get in touch with the Registry of this Court, ascertain the total amount paid to the landlord till date and remaining payable to him and place the same at the disposal of the High Court for disbursement to the landlord and the Petitioner. All the steps be taken within two months. The petition is disposed of with no order as to costs. Dasti copy, as prayed, on usual terms.