
(2004) 03 DEL CK 0072

In the Delhi High Court

Case No : Writ Petition (C) . No. 816 of 2000

Ms. Nimmi Tickoo

APPELLANT

Vs

Govt. of J and K and Another

RESPONDENT

Date of Decision : 10-03-2004

Acts Referred:

Citation : (2004) 110 DLT 457 : (2004) 73 DRJ 633 : (2004) 3 SLJ 362

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : V.K. Shali, for the Appellant; Nemo, for the Respondent

Judgement

Manmohan Sarin, J.—This writ petition had come up before the Court for hearing as a regular matter on 9.3.2004, when Mr.V.K.Shali, counsel for the petitioner, was heard in part. The matter was kept for today, as none was present on behalf of the respondent. The name of counsel for the respondent Mr.R.M.Tuffail, Advocate, is duly shown in the cause list. None is present on behalf of the respondent today also. In these circumstances, I proceed to decide the writ petition, after hearing Mr.V.K.Shali, counsel for the petitioner and on the basis of pleadings and documents, as available on record.

2. Petitioner, Ms.Nimmi Tickoo, had filed the present writ petition, seeking a writ or direction to the respondent/Resident Commissioner, State of Jammu & Kashmir, hereinafter referred to as Resident Commissioner, to frame policy/rules/regularising the allotment of Government accommodation to the employees under the office of Resident Commissioner. Petitioner also seeks quashing of order dated 31.1.2000, issued by the respondents, directing the petitioner to vacate the Q.No.6 at 5, Prithvi Raj Road, New Delhi, allotted to her, as the same had been allotted to Mr.Khem Raj Sharma.

3. The facts, leading to the filing of the present writ petition, may be briefly noted:-

4. Petitioner had joined the office of the Resident Commissioner in November,

1999. On 22.1.1993, she was transferred and adjusted to the Resident Commissioner's office on temporary basis against the vacancy of one Mr.Dharam Pal Sharma. In the event, she got confirmed as a permanent employee with the Resident Commissioner. In January, 1999, she was allotted Q.No.6 at 5, Prithvi Raj Road, New Delhi. license fee of Rs.1350/- per moth was deducted from her salary. On 12.5.1999, Q.No.6 was allotted to her on temporary basis up to September, 1999. Vide order dated 13.10.1999, she was allowed to retain quarter till further orders.

5. Petitioner's grievance is that thereafter began a saga of ad hoc orders, requiring the petitioner to either vacate the said accommodation or exchange the same with another person. Reversal of the order, passed earlier, thereby displaying complete arbitrariness and lack of any policy or basis on which allotments were made. To illustrate this, learned counsel points out that vide order dated 31.12.1999/3.1.2000, an order was passed, directing, exchange of quarter between the petitioner and Sh.Mufti Farid Ud-Din. Petitioner was required to exchange her allotment of Q.No.6 at 5, Prithvi Raj Road, New Delhi with Sh.Mufti Farid Ud-Din, who was occupying flat No.A-7 at Chankya Puri, New Delhi. Again vide order dated 20.1.2000, petitioner, who was asked to occupy flat No.A-7, Chankya Puri, New Delhi, the said flat was allotted to Mr.Khem Raj Sharma. Subsequently, vide order dated 8.3.2000, Mr.Khem Raj Sharma was allotted Q.No.8 instead of Q.No.6 at 5, Prithvi Raj Road, New Delhi. Petitioner assails these ad hocism and arbitrariness in allotments by the respondents without there being any definite policy or guidelines for the same.

6. Counter affidavit has been filed by the respondents. One of the objections by the respondents in the counter affidavit is that petitioner herself is not occupying the accommodation allotted. It is averred in the counter affidavit that petitioner does not stay in the staff Q.No.6 at 5, Prithvi Raj Road, New Delhi and actually stays with her in-laws' house at D-40 Pamposh Enclave, Greater Kailash-I, New Delhi and the staff quarter is being used by her father, brother and sister, who cannot be stated to be dependant on the petitioner. It is also averred in the counter affidavit that the accommodation at Pamposh Enclave, where the petitioner resides is closer to the School of her children and it is urged that there is no School bus from Q.No.6 at 5, Prithvi Raj Road, New Delhi. It is further averred that petitioner's ration card also carries the address of D-40, Pamposh Enclave, Greater Kailash-I, New Delhi. In other words, the precise submission is that petitioner is not living in Q.No.6 at 5, Prithvi Raj Road, New Delhi and is living with her in-laws at D-40, Pamposh Enclave, Greater Kailash-I, New Delhi and, Therefore, petitioner has no right to continue to hold on to the accommodation and have the same used by her other relations.

7. I would have been persuaded to accept the objection but for the fact that respondents have not proceeded against the petitioner on this ground. No show cause notice was issued to the petitioner on this ground either for cancellation of her allotment or seeking her Explanation as to why she was not residing in the

flat allotted to her. As a matter of fact, respondents, as per the record, have not even cancelled the allotment so far made. In the event, I am informed by Mr.V.K.Shali that Mr.Khem Raj Sharma has occupied another flat and the present Q.No.6 continues to be in occupation of the petitioner. There is also merit in the petitioner's submission that frequent changes in allotment or directions for exchange of flats can cause inconvenience and harassment to the employees. Frequent unwarranted moves and shifting do have the effect of unsettling the usual routine of life. It can also have a cascading effect on the efficiency of the employees. It would, thus, be for the respondent to formulate a policy or guideline for allotment of residential quarters, taking into account, various factors, such as, seniority, period of occupation and availability of quarters. The impugned order, cancelling the allotment of petitioner for Q.No.6 at 5, Prithvi Raj Road, New Delhi and allotting Q.No.A-7, Chankya Puri, New Delhi is, accordingly, quashed. Respondents shall, however, be free to proceed, if they so desire against the petitioner for cancellation of the allotment made to her on the ground that the allotted quarter has been sub-let or is not being used by her and she is living elsewhere, after giving her a proper show cause notice and proceeding in accordance with law.

The writ petition is disposed of with the above directions.