
(2004) 02 AHC CK 0200
In the Allahabad High Court
Case No : C.M.W.P. No. 54925 of 2003

Nand Lal Saran Mehrotra

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 16-02-2004

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2004) 3 AWC 2139

Hon'ble Judges : R.S. Tripathi, J;M. Katju, J

Bench : Division Bench

Advocate : Deo Raj, for the Appellant;

Final Decision : Dismissed

Judgement

M. Katju, J.—Heard learned counsel for the parties.

2. The petitioner retired as Junior Engineer Irrigation Department, Government of Uttar Pradesh on 30.4.1996. A Government accommodation had been allotted to him at A-5 Ram Ganga Colony, Dhampur, district Bijnor.

3. After his retirement he should have vacated the premises as it was a Government accommodation but he did not do so. Consequently penal rent has been charged. Against that order the petitioner has filed this writ petition.

4. We are not inclined to exercise our discretion under Article 226 of the Constitution in this case.

5. The petitioner being a Government servant should have realised that he cannot retain the Government accommodation after his retirement in the year 1996 and he should have vacated the same but it appears that he is still in possession in the said premises even after about eight years of his retirement. This was most improper because if a Government servant does not vacate the premises which he is occupying on his retirement or transfer his successor will have no place to live in. Surely the successor is not expected to live on the open

road.

6. Writ jurisdiction is discretionary jurisdiction as held by the Supreme Court in Chandra Singh Vs. State of Rajasthan and Another, and Ramniklal N. Bhutta and another Vs. State of Maharashtra and others, : 1998 AWC (Supp.) 1.49 (SC) (NOC) etc. In such cases we are not inclined to exercise our discretion under Article 226 of the Constitution. In many cases which are coming up before us we find that Government servants, continue occupying the Government premises in their possession even for ten or fifteen years after their retirement or transfer. The time has now come to take a stern view of such matters.

7. Learned counsel for the petitioner has submitted that some other retired employees are similarly occupying Government accommodation and hence there is discrimination against the petitioner. In our opinion there is no question of violation of Article 14 in the matter of illegalities. Two wrongs do not make one right. If other retired Government employees are retaining Government accommodation after their retirement or transfer they too should be evicted.

8. We further direct that if the petitioner is still in possession of the Government accommodation in question he shall be evicted within two weeks from today failing which he shall be evicted by police force.

9. The petition is dismissed.

10. The Registrar General of this Court as well as learned standing counsel will communicate this order to the District Magistrate/S.S.P. Bijnor forthwith.