

(2003) 08 DEL CK 0004
In the Delhi High Court
Case No : CW No. 2697 of 2002

Sh. J.C. Pant

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 19-08-2003

Acts Referred:

Public Premises (Eviction of Unauthorised Occupants) Act, 1971 — Section 7, 9

Citation : (2004) 1 AD 277 : (2003) 108 DLT 29 : (2004) 3 RCR(Civil) 370

Hon'ble Judges : Badar Durrez Ahmed, J

Bench : Single Bench

Advocate : Vijay Kumar, for the Appellant; Harish Chandra and G.R. Choubey, for the Respondent

Judgement

Badar Durrez Ahmed, J.—Rule. With the consent of the parties, the matter is taken up for final disposal. In this writ petition, the petitioner is essentially aggrieved by the order of the Estate Officer dated 07.07.1999 which has been confirmed in Appeal u/s 9 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as "the Act") by the learned ADJ vide judgment dated 16.03.2002 whereby the petitioner has been ordered to pay a sum of Rs2, 00, 338/- assessed as damages on account of the purported unauthorised occupancy by the petitioner of the premises C-II/10, Moti Bagh-I, New Delhi for the period 01.09.1997 to 26.10.1998.

2. The petitioner is a retired Civil Servant and in the course of his employment he was allotted the aforesaid premises. He retired on 31.12.1996 and thereafter his allotment was cancelled w.e.f. 30.04.1997. Further four months extension was granted to the petitioner on medical grounds. However, the petitioner vacated the premises on 26.10.1998. In this context, the Estate Officer initially issued a notice u/s 7 for recovery of damages for the alleged period of unauthorised occupancy, i.e., from 01.09.1997 to 26.10.1998. The petitioner contested the same. It is also submitted by the learned counsel appearing on behalf of the petitioner that the initial order of the Estate Officer dated

07.07.1999 did not contain any reasons. However, during the course of arguments in the appeal before the learned ADJ, it was revealed to the petitioner that certain reasons had been recorded on the file. It also transpired that there was an office memorandum dated 17.11.1997 issued by the Ministry of Urban Affairs and Employment, Directorate of Estates, New Delhi whereby guidelines for discretionary allotment of Central Pool Residential Accommodation in Delhi were prescribed. It is the counsel's contention that the guidelines were applicable and in particular paragraph 4 thereof which is set out hereinbelow:-

"4. Allotment to private individuals/non-governmental organisations:

The allotments made to private persons such as eminent artists, persons of outstanding merit engaged in works of national standing or national award winners in the field of science, sports or social services and non-governmental organizations/institutions will be valid only up to the end of the current allotment period. The non-governmental organisations will not be eligible for allotment of govt. residential accommodation nor will any proposal for extension in the present allotment period be considered, except in national interest or to meet international obligations with the approval of the Cabinet Committee on Accommodation. Similarly, discretionary allotment to private individuals/non-government persons, including freedom fighters, shall be allowed only with the approval of the CCA, if it is considered necessary in national interest or for meeting international obligations. The widows of freedom fighters will be allowed to retain Govt. accommodation only for a period of six months after the demise of the allottees."

3. Learned counsel appearing for the petitioner also pointed out two letters written by the Ministry of Health and Family Welfare dated 01.05.1997 and 06.11.1997 which were written to the Ministry of Urban Development for allotting the aforesaid premises to the petitioner in public interest in view of his position as Chairman of an NGO, namely, REACHA, as well as Chairman of High Level Central Team constituted under the directions of the Cabinet Secretary vide the Ministry's (Ministry of Health and Family Welfare) order dated 24.09.1997. It is, Therefore, the learned counsel's contention that the petitioner was eligible for an allotment and the rejection that was made by the Ministry of Urban Development by its letter dated 29.12.1997 which is on record is not in accordance with the aforesaid guidelines inasmuch as the power to approve allotments is specifically given by the guidelines to the Cabinet Committee on Accommodation. The learned counsel for the petitioner submitted that the Cabinet Committee on Accommodation was the only authority which was empowered to accept or reject the recommendations for allotment of residential accommodation to the petitioner.

4. From a plain reading of paragraph 4 of the guidelines, it appears that as a general principle or policy, NGOs were not eligible for allotment of government residential accommodation and they were also not entitled to any extension in respect of any present allotment. However, exceptions had been carved out and

by virtue of these exceptions, where national interest was involved or where international obligations had to be met, NGO's could be considered for allotment. However, such allotment would have to get the approval of the Cabinet Committee on Accommodation. Had the proposals for allotment made by the Ministry of Health and Family Welfare been placed before the Cabinet Committee on Accommodation and thereafter the same been rejected, the petitioner would have had no case. Unfortunately, that is not what has transpired. It is, Therefore, in the fitness of things that the Cabinet Committee on Accommodation be directed to consider those proposals and to consider to regularise the allotment or not. In case they decide not to regularise the same, the petitioner shall be bound by the orders already passed and the damages would have to be recovered from the petitioner. On the other hand, in case the allotment is regularised, then the petitioner would not be liable to pay any of the damages levied by the Estate Officer and confirmed by the learned ADJ. The respondent No. 1 is directed to forward the file and in particular the earlier letters of Ministry of Health and Family Welfare dated 01.05.1997 and 06.11.199 before the Cabinet Committee on Accommodation within four weeks. The Cabinet Committee on Accommodation will decide the issue within four months.

The writ petition is accordingly disposed of.