
(2016) 06 SHI CK 0128
In the High Court Of Himachal Pradesh
Case No : LPA No. 129 of 2014.

State of Himachal Pradesh and another - Appellants @HASH Dr. Ramesh Chauhan

Date of Decision : 20-06-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 3 HimLR 1879 : (2016) ILRHP 2061

Hon'ble Judges : Mansoor Ahmad Mir, CJ. and Tarlok Singh Chauhan, J.

Bench : Division Bench

Advocate : Mr. Shrawan Dogra, Advocate General, with Mr. Anup Rattan, Mr. Romesh Verma and Mr. M.A. Khan, Additional Advocate Generals, and Mr. J.K. Verma, Deputy Advocate General, for the Appellants; Mr. N.D. Sharma and Mr. S.R. Sharma, Advocates, for the Responden

Final Decision : Disposed Off

Judgement

Mr. Mansoor Ahmad Mir, C.J.(Oral) - This Letters Patent Appeal is directed against judgment and order, dated 18th December, 2013, made by the learned Single Judge/Writ Court in CWP No. 1727 of 2011, titled as Dr. Ramesh Chauhan v. State of H.P. & another, whereby the writ petition filed by the writ petitioner-respondent came to be allowed and the writ respondents-appellants were directed to recalculate the amount of damages, which were to be paid by the writ petitioner-respondent for retaining the Government accommodation for the period with effect from 1st October, 2009, up to 31st October, 2010 (for short "the impugned judgment").

2. The case of the writ petitioner-respondent before the Writ Court was that he retained the Government accommodation for the said period because of the circumstances beyond his control. It was also pleaded that some other persons have also retained the premises unauthorisedly, but they were not directed to pay such a huge penalty.

3. The Writ Court, after noticing the averments contained in the writ petition, held that the writ respondents-appellants have not drawn action against so many

officers, then why against the writ petitioner-respondent. Perhaps, this is the only reason for allowing the writ petition. It would be profitable to reproduce para 6 of the impugned judgment herein:

"6. It is seen that the Estate Officer has chosen to levy maximum damages @ 18 per sq. ft., but then respondents cannot act in an arbitrary and discriminatory manner. More than 31 officers/officials in the year 2008 and more than 38 officers/officials in the year 2009 have unauthorisedly retained their premises. In none of such cases, damaged @ 18 per sq. ft. was charged. Then why so in the case of the present petitioner? Petitioner is ready to pay damages eight times the market rent."

4. It is apt to record herein that equity can be claimed only for lawful things and not for unlawful things. Thus, the foundation of the impugned judgment is bad, erroneous and illegal.

5. Accordingly, the impugned judgment merits to be set aside and the writ petition is to be dismissed.

6. At this stage, Mr. J.K. Verma, learned Deputy Advocate General, stated at the Bar that the writ respondents-appellants have examined the case of the writ petitioner-respondent afresh and in case he approaches the concerned authority, perhaps, he has only to pay Rs. 1,40,889/- and not Rs. 2,37,744/-, as has been mentioned in para 7 of the memo of appeal. His statement is taken on record.

7. In view of para 7 of the appeal, we deem it proper to direct the writ petitioner-respondent to pay Rs. 1,40,889/- to the writ respondents-appellants within six weeks.

8. At this stage, learned counsel for the writ petitioner-respondent stated at the Bar that the service benefits of the writ petitioner-respondent have been withheld by the concerned authority because of the orders passed by the writ respondents-appellants, which were subject matter of the writ petition. The concerned authority is directed to release all the legitimate service benefits in favour of the writ petitioner-respondent after he complies with the directions (supra).

9. The State-authority(ies) is/are commanded to draw action in future, as per the law and not to use different yardsticks.

10. The appeal is disposed of accordingly along with all pending applications.