

(2018) 10 PAT CK 0012

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.9017 of 2018

Tejashwi Prasad Yadav @APPELLANT@Hash State of Bihar

Date of Decision : 06-10-2018

Acts Referred:

House (Salary and Allowances) Rules, 2006 — Rule 3, 3(ka)
Bihar Government Servant Allotment (Administrative Pool) Rules, 1996 — Rule 10, 11
Constitution of India, 1950 — Article 226

Citation : (2018) 10 PAT CK 0012

Hon'ble Judges : Jyoti Saran, J

Bench : Single Bench

Advocate : Abhinav Srivastava, Lalit Kishore, Anshuman Singh, Kumar Ravish

Final Decision : Dismissed

Judgement

The petitioner, an elected representative to the State Assembly, has, by filing this writ petition under Article 226 of the Constitution of India prayed for

issuance of a writ in the nature of certiorari for quashing the letter dated 20.9.2017 issued by the Estate Officer, Building Construction Department,

Govt. of Bihar, Patna, whereby the petitioner has been directed to vacate Bungalow No. 5, Deshratna Marg, in the town and district of Patna, allotted

to him in the capacity of Deputy Chief Minister, impugned at Annexure 10 to the writ petition.

The petitioner alongside also prays for quashing of the order bearing Memo No. 7728 dated 29.8.2017 of the Estate Officer, whereby the said

Bungalow No.5, Deshratna Marg, Patna has been allotted in favour of respondent no.5, impugned at Annexure 6 to the writ petition.

The third order put to challenge by the petitioner for praying for issuance of writ in the nature of certiorari is the corrigendum bearing Memo No. 8235

dated 12.9.2017 of the Estate Officer, whereby the office order bearing Memo

No. 7728 dated 29.8.2017 has been modified to ear-mark Bungalow

No. 5, Deshratna Marg, Patna for the Deputy Chief Minister/ senior most Minister, impugned at Annexure 9 to the writ petition.

The petitioner has also prayed for quashing of the letter dated 19.4.2018 of the Competent Authority, Building Construction Department addressed to

the District Magistrate, Patna, whereby he has been requested for taking appropriate steps for eviction of the petitioner from Bungalow No. 5,

Deshratna Marg, Patna, impugned at Annexure 23 of the writ petition.

The petitioner lastly has prayed for appropriate writ in the nature of mandamus commanding the respondent authorities not to disturb him from the

peaceful occupation of Bungalow No. 5, Deshratna Marg, Patna and to restrain them from acting in furtherance of the orders impugned, referred to

above.

The facts essential for disposal of the writ petition briefly stated is that the petitioner is an elected representative from 128, Raghapur Assembly

Constituency having been declared elected in the 2015 Assembly Elections to the Bihar Legislative Assembly. A coalition Government under the

Grand Alliance consisting of the elected representatives from the Rashtriya Janta Dal (R.J.D.), the Janta Dal United (JDU) and the Indian National

Congress was formed and the petitioner was administered oath of office as the Deputy Chief Minister in the newly formed Government. It is on the

appointment of the petitioner as the Deputy Chief Minister that the Govt. of Bihar by an office order dated 11.12.2015 issued by the Estate Officer,

allotted Bungalow No. 5, Deshratna Marg, Patna as his official quarter on the basis of the decision taken by the Gazetted House Allotment

Committee on 5.12.2015. A copy of the allotment order is annexed as Annexure 1 to the writ petition. The coalition Government was dissolved on

26.7.2017 and a new Government was formed on a coalition between the Janta Dal United and the Bhartiya Janta Party.

As a natural consequence of the dissolution on 26.07.2017, the petitioner, who was an elected member from the Rashtriya Janta Dal, ceased to be a

part of the Government and consequentially ceased to be a Minister since after 26.7.2017. The change over, however, did not have much impact on

the status of the petitioner as a Minister because the petitioner was elected the leader of the opposition and in that capacity, became entitled to all

facilities of a Minister, vide notification bearing No. 536 dated 18.8.2017 enclosed at Annexure 5 to the writ petition.

On the other hand, it is following the formation of the new Government and cessation of the petitioner as a Minister that an order was issued by the

Building Construction Department ear-marking the allotted Bungalow No. 5, Deshratna Marg, Patna in favour of respondent no.5, who under the new

Government was appointed as the Deputy Chief Minister. A copy of the order bearing Memo No. 7728 dated 29.8.2017 is impugned at Annexure 6 to

the writ petition. A Corrigendum to this order was issued vide Memo No. 8235 dated 12.9.2017, whereby Bungalow No. 5, Deshratna Marg, Patna

was ear-marked for Deputy Chief Minister/ senior most Minister in the Government. A copy of the Corrigendum is impugned at Annexure 9 to the

writ petition. The Corrigendum was followed by an eviction notice served on the petitioner by the Estate Officer asking him to vacate the said quarter

vide letter dated 20.9.2017 impugned at Annexure 10 to the writ petition.

The petitioner on getting eviction notice represented before the Principal Secretary for allotment of the said Bungalow No. 5, Deshratna Marg, Patna

in his favour, as the leader of the Opposition Party and since he was entitled to all facilities of a Minister. A copy of the representation of the petitioner

is enclosed at Annexure 11 to the writ petition. On not getting any response, the petitioner renewed his request vide Annexure 12, however, the

requests so made have been rejected by the Minister, Building Construction Department while informing the petitioner that the said bungalow has been

ear-marked for the Deputy Chief Minister for facilitating the discharge of obligations attached to the post. A copy of the letter of the Minister, Building

Construction Department is enclosed at Annexure 13 to the writ petition.

The writ petition contains correspondences which ensued in between the petitioner and the respondent authorities in the Building Construction

Department including the Minister In-charge and while this exercise continued that an order was issued by the appropriate competent authority

bearing Memo No. 3859 dated 19.4.2018, whereby the District Magistrate, Patna was requested to evict the petitioner from the quarter in question.

Feeling aggrieved he is before this Court.

The writ petition was heard by a Co-ordinate Bench on 18.5.2018. The Bench expressing reservations in hearing the matter but bearing note of the

predicament of the petitioner who was facing eviction notice executable by the District Magistrate, Patna, directed the respondents to maintain status

quo with regard to the quarter in question as existing on the date of the order. The writ petition was assigned to this Court by Hon^{ble} the Chief

Justice and was admitted for hearing on 18.7.2018. Notices were issued to respondent no.5 and on return of the notice and appearance of the parties, the matter has been heard on merits.

Mr. Abhinav Srivastava, learned counsel, has appeared for the petitioner while respondents no. 1 to 4 are represented by the learned Advocate

General assisted by Mr. Anshuman Singh, learned AC to AG. Respondent no.5 has registered appearance through Mr. Kumar Ravish, learned counsel.

Mr. Srivastava, learned counsel for the petitioner, while briefly discussing the sequence of events as taken note of above, has submitted that

respondent no.5 even earlier held the post of Deputy Chief Minister and when he was allotted 1, Polo Road which he continues to occupy even today.

It is submitted that unnecessarily the petitioner is being harassed to vacate the bungalow in question because the respondent no.5 was allotted 1, Polo

Road as the Deputy Chief Minister when the present coalition Government consisting of the elected member from the ^{BJP} & ^{JDU} was

earlier elected to power in the 2010 Assembly Election. It is argued that the said coalition Government was dissolved in mid term and the respondent

no.5, who was holding the post of Deputy Chief Minister, was allowed to continue in that quarter even after he was elected as the leader of

opposition. It is argued that following the success of the Grand Alliance in the 2015 Assembly Election that a coalition of three political parties, namely,

the Rashtriya Janta Dal, the Janta Dal United and Indian National Congress formed the Government but unfortunately the coalition got dissolved

midway through on 26.7.2017 and a new Government was formed under the present alliance of the ^{BJP} and ^{JDU}.

According to Mr. Srivastava, the dissolution of the Government would not affect the status of the petitioner in view of stipulations present in Bihar

Legislature Leader of Opposition, Parliamentary Secretary, Whip and Leader of the House (Salary and Allowances) Rules, 2006 (hereinafter referred

to as ^{the 2006 Rules}) which under Rule 3 (ka) allows all facilities to a Leader

of Opposition party as admissible to a Minister under the

Government, which according to Mr. Srivastava would include the accommodation in question as well. The submission thus advanced is that since the

petitioner is entitled to the salary and allowances as well as facility of a Minister in the Government, that the Bungalow No.5, Deshratna Marg, Patna

was allotted to him as a Minister, there is no occasion for the respondents to interfere therewith or by ear-marking it in favour of the Deputy Chief

Minister/ Senior most Minister in the Government which decision according to Mr. Srivastava is solely for the purpose of causing harassment to the

petitioner and is a malafide decision.

It is the argument of Mr. Srivastava that the decision(s) impugned are an abuse of power by the respondents and the decision(s) not having lawful

support nor withstanding the test of reasonableness is fit to be struck down. Learned counsel in support of his submission has relied upon the following

judgments of the Supreme Court to canvass that the orders impugned are an abuse of power and the discretion exercised is malafide:

(i) AIR 1993 SC 935 (Mahesh Chandra vs. Regional Manager, UP Financial Corporation & ors.) Paragraph 15

(ii) (2014)2 SCC 401 (Jai Jayalalithaa & ors. vs. State of Karnataka & ors.) Paragraphs 24 and 25

(iii) (2014)3 SCC 502 (Dipak Babaria & anr. vs. State of Gujarat & ors.) Paragraph 60

(iv) AIR 1967 SC 295 (Barium Chemicals Ltd. & anr. vs. Company Law Board & ors.) Paragraph 60 In support of his submission that there is no

power vested in the respondents to ear-mark any bungalow and thus, the decision is unreasonable, learned counsel has relied upon a King's Bench

decision reported in (1947) 1 K.B. 221 (Roberts vs. Jones) as appearing at Page 228-230. Summing up his arguments Mr. Srivastava has advanced

the following issues for consideration:

(a) Rule 3(k) of the 2006 Rules entitles the petitioner to the quarter in question as he enjoys the same status as that of the Minister of the

Government;

(b) There is no power with the respondents to ear-mark any bungalow;

(c) The grounds assigned by the respondents to ear-mark bungalow in favour of

the Deputy Chief Minister/ Senior Most Minister is not justifiable; and

(d) Several Ministers have been allowed to continue in the quarters so allotted.

Mr. Lalit Kishore, learned Advocate General, has appeared for the respondents and has been rather brief in his submissions to contest the arguments

advanced by Mr. Srivastava in support of the claim advanced by the petitioner for retention of the quarter in question. He submits that for invoking a

remedy under Article 226 of the Constitution of India, the petitioner has to first establish a legal right vested in him for such enforcement and alongside

should also be able to establish the corresponding obligation on the part of the State which the State has failed to discharge.

Learned Advocate General while accepting that the petitioner was entitled to accommodation of the status of a Minister in the Government submits

that as per own admission of the petitioner Bungalow No.1 Polo Road, Patna allotted to the petitioner enjoys such status and thus, the petitioner cannot

allege either arbitrariness or malafide against the State for the action complained.

According to learned Advocate General, it is entirely within the discretion of the respondents to take a decision for ear-marking of Government

accommodation and in case a decision has been taken by the Committee headed by the Minister In-charge to ear-mark the bungalow in question for

the Deputy Chief Minister/ Senior Most Minister in the Government in view of its distance proximity with that of the bungalow of the Chief Minister, it

is a reasonable explanation for such decision.

According to learned Advocate General, the petitioner himself in capacity of the Deputy Chief Minister was allotted the bungalow in question and in

case the Government has appreciated its utility for being ear-marked as a bungalow for the Deputy Chief Minister, the petitioner should have no

grievance. According to learned Advocate General, the quarter so allotted to the petitioner at 1, Polo Road, Patna presently occupied by the current

Deputy Chief Minister is not of lower status nor any such grievance is raised by the petitioner whose sole basis for the claim is, his occupancy of the

quarter on the basis of earlier allotment, which he does not wish to forego.

Learned Advocate General in reference to the order of the Building Construction Department dated 29.8.2017, impugned at Annexure 6 to the writ

petition, submits that the order which ear-marks Bungalow No.5, Deshratna Marg, Patna for the Deputy Chief Minister alongside also ear-marks 1

Polo Road, Patna for the leader of Opposition as manifest from Item No.17 of the order. According to Mr. Lalit Kishore, learned Advocate General, a

mere possibility of a better option in a given situation, does not render the decision put to question illegal nor can be a reason for interference

therewith, in extra-ordinary writ Jurisdiction.

According to the learned Advocate General, the writ petition lacks merit and the issues raised lack foundation for interference. I have heard learned

counsel for the parties and have perused the records. The facts have already been discussed in extenso hereinabove and requires no reiteration. The

limited issue which falls for consideration is whether the decision of the respondent authorities in the Building Construction Department to earmark

Bungalow No.5, Deshratna Marg, Patna for the Deputy Chief Minister/ Senior most Minister suffers any infirmity?

The proposition of law advanced by Mr. Srivastava are legally sound for inviting any comment thereon save and except that it has to be seen whether

the proposition so advanced would apply to the facts accompanying the present case. A lot of emphasis has been placed by Mr. Srivastava on the

continued occupation of the Bungalow No.1, Polo Road, Patna by the respondent no.5, as a Deputy Chief Minister followed by his appointment as the

leader of Opposition after the 2015 Assembly Election and which again is followed by his oath of office as the Deputy Chief Minister in the present

Government.

As I have noted above, it is not the continued occupancy of the Bungalow No.1, Polo Road, Patna by respondent no.5, which is a subject matter of

discussion in the present case, rather the issue which requires an expression from this Court is whether the earmarking of Bungalow No.5, Deshratna

Marg, Patna for the Deputy Chief Minister by the respondent department, suffers any infirmity?

It is nobody's case that 1, Polo Road, Patna was ever earmarked for the Deputy Chief Minister or for the leader of Opposition rather it is because of

the changing status of respondent no.5 over the last two elections that the status of the bungalow also changed accordingly. When the new

Government was formed after 2015 Assembly Election, Bungalow No.5, Deshratna Marg, Patna was allotted to the petitioner as a Deputy Chief

Minister in the Government vide order present at Annexure 1. The coalition

Government popularly called the Grand Alliance could not complete its term and got dissolved on 26.7.2017. A new Government with a new coalition came to power and the respondent no.5 as the senior most Minister was appointed the Deputy Chief Minister in the Government while the petitioner was appointed leader of Opposition through notification dated 18.8.2017 at Annexure 5 to the writ petition. There is absolutely no dispute that the leader of Opposition is entitled to the same salary, allowances and facilities as admissible to a Minister in the Government which is manifest from Rule 3(ka) of 'the 2006 Rules'.

It is on formation of the new Government that a decision was taken by the competent authority constituted under the Bihar Government Premises Allotment Administrative Pool Rules, 1996 to ear-mark Bungalow No.5, Deshratna Marg, Patna for the Deputy Chief Minister/ Senior most Minister in the Government as manifest from the decision present at Annexure 6 as modified by the Corrigendum dated 12.9.2017 at Annexure 9. The documents enclosed by the contesting parties would confirm that the allotment of the quarter under the administrative control of the Building Construction Department are being regulated by the Bihar Government Servant Allotment (Administrative Pool) Rules, 1996 which at Rule 10 constitutes a Committee under the chairmanship of the Minister, Building Construction and at Rule 11 enables them to take decision as regarding transfer of the bungalows/ quarters from the administrative pool and putting them under the control of the High Court, the Bihar Legislative Assembly and the Bihar Legislative Council.

In the circumstances so discussed, where a decision has been taken by the competent authority to ear-mark Bungalow No.5, Deshratna Marg, Patna for the Deputy Chief Minister and Bungalow No.1, Polo Road, Patna for the leader of Opposition vide its order bearing Memo No. 7728 dated 29.8.2017 which decision of the competent authority has been endorsed by the Gazetted House Allotment Committee in its meeting held on 12.9.2017 enclosed at Annexure 'N' to the supplementary counter affidavit, I find no infirmity in so far as the decision making process is concerned either on the issue of transparency, fair play or of emitting malice in the process. May be, Bungalow No.5, Deshratna Marg, Patna, according to the petitioner, is better located but then this can neither be a reason to uphold a claim or to

interfere with the decision especially where the quarter so allotted to the petitioner at 1, Polo Road, Patna has neither been found short of its status or on any other ground.

The argument of Mr. Srivastava that the Rules do not empower the respondents to ear-mark any bungalow would also not come to the aid of the

petitioner if the decision so taken and the power so exercised, is supported with a possible explanation. The representations addressed to the Minister

In-charge by the petitioner stands disposed through letters enclosed at Annexure 13 and Annexure 15 to the writ petition and the reason expressed by

the Minister, Building Construction Department to ear-mark Bungalow No.5, Deshratna Marg, Patna for the Deputy Chief Minister on account of its

close proximity with the bungalow of the Chief Minister, provides a possible explanation for such decision, especially where it is taken to facilitate the

discharge of the governmental function. That the Bungalow No.5, Deshratna Marg, Patna was allotted to the petitioner in his capacity as the Deputy

Chief Minister in the Government, if the respondents have realized that nearness of the two bungalows of the Chief Minister and the Deputy Chief

Minister has provided useful input in discharge of governmental function, a decision to ear-mark the said bungalow for the Deputy Chief Minister

certainly cannot be called either arbitrary or malafide rather is founded on supportive reasons.

As I have already observed, the proposition of law advanced by Mr. Srivastava is sound except that he has inadvertently referred to the judgment of

Mahesh Chandra (supra) which was overruled by a subsequent judgment of the Supreme Court reported in (2002)3 SCC 496 (Haryana Financial

Corporation & anr. vs. Jagdamba Oil Mills & anr.). The proposition advanced by Mr. Srivastava is sound on principle except that they do not apply to

the facts accompanying the present case where a decision has been taken by the respondents to ear-mark Bungalow No.5, Deshratna Marg, Patna

for the Deputy Chief Minister/ Senior most Minister in the Government and by the same order ear-mark Bungalow No.1, Polo Road, Patna for the

leader of Opposition. It is long well settled that a mere possibility of a better solution to an issue raised is not sufficient to strike down the decision

unless the action complained is either dehors the law or in excess/ want of jurisdiction or is clothed with perversity or is against the constitutional

safeguards, none of which circumstance exists in the present case.

In my opinion, the very fact that the petitioner has been allotted a bungalow matching his status as a Minister in the Government at 1, Polo Road,

Patna which according to the petitioner himself has been in occupation of the respondent no.5 as a Deputy Chief Minister as well as in capacity of the

leader of Opposition, he cannot raise complaint on the decision so taken simply because the present bungalow is more suitable to him. The exercise of

jurisdiction by a High Court under Article 226 of the Constitution of India may be wide but it has its own limitations and certainly cannot be exercised

as an appellate authority by sitting in appeal over an administrative decision. As I have observed, a mere better solution to a problem is neither

sufficient nor can be a foundation for engaging in such exercise.

In my opinion the following judgments of the Supreme Court are sufficient to bring the contest to a close. In the case of Jagdamba Oil Mills (supra),

the Supreme Court while expressing its opinion on the power of judicial review has held as follows:

“10. The obligation to act fairly on the part of the administrative authorities was evolved to ensure the rule of law and to prevent failure of justice.

This doctrine is complementary to the principles of natural justice which the quasi-judicial authorities are bound to observe. It is true that the distinction

between a quasi-judicial and the administrative action has become thin, as pointed out by this Court as far back as 1970 in A.K. Kraipak v. Union of

India (1969) 2 SCC 262. Even so the extent of judicial scrutiny/judicial review in the case of administrative action cannot be larger than in the case of

quasi-judicial action. If the High Court cannot sit as an Appellate Authority over the decisions and orders of quasi-judicial authorities, it follows equally

that it cannot do so in the case of administrative authorities. In the matter of administrative action, it is well known, more than one choice is available

to the administrative authorities; they have a certain amount of discretion available to them. They have “a right to choose between more than one

possible course of action on which there is room for reasonable people to hold differing opinions as to which is to be preferred” (as per Lord Diplock

in Secy. of State for Education and Science v. Metropolitan Borough Council of Tameside, All ER at p. 695f). The court cannot substitute its judgment

for the judgment of administrative authorities in such cases. Only when the

action of the administrative authority is so unfair or unreasonable that no reasonable person would have taken that action, can the court intervene. â?| â?| â?|â??

In another judgment reported in (2005)12 SCC 495 (State of Orissa & ors. vs. Gopinath Dash & ors.) the Supreme Court while expressing opinion on

a policy decision taken by the State Government on allotment of accommodation, has observed as thus:

â??5. While exercising the power of judicial review of administrative action, the Court is not the Appellate Authority and the Constitution does not

permit the Court to direct or advise the executive in the matter of policy or to sermonise qua any matter which under the Constitution lies within the

sphere of the legislature or the executive, provided these authorities do not transgress their constitutional limits or statutory power. (See Asif Hameed

v. State of J&K, 1989 Supp (2) SCC 364 and Shri Sitaram Sugar Co. Ltd. v. Union of India, (1990) 3 SCC 223). The scope of judicial enquiry is

confined to the question whether the decision taken by the Government is against any statutory provisions or it violates the fundamental rights of the

citizens or is opposed to the provisions of the Constitution. Thus, the position is that even if the decision taken by the Government does not appear to

be agreeable to the Court, it cannot interfere.

6. The correctness of the reasons which prompted the Government in decision-making taking one course of action instead of another is not a matter of

concern in judicial review and the Court is not the appropriate forum for such investigation.

7. The policy decision must be left to the Government as it alone can adopt which policy should be adopted after considering all the points from

different angles. In the matter of policy decisions or exercise of discretion by the Government so long as the infringement of fundamental right is not

shown the courts will have no occasion to interfere and the Court will not and should not substitute its own judgment for the judgment of the executive

in such matters. In assessing the propriety of a decision of the Government the Court cannot interfere even if a second view is possible from that of

the Government.

8. The Court should constantly remind itself of what the Supreme Court of the United States said in *Metropolis Theater Co. v. City of Chicago*, 57 L

ED 730).

â?? The problems of government are practical ones and may justify, if they do not require, rough accommodations, illogical it may be, and unscientific.

But even such criticism should not be hastily expressed. What is the best is not always discernible, the wisdom of any choice may be disputed or

condemned. Mere errors of government are not subject to our judicial review.â??

Similar is the view expressed by the Supreme Court in a judgment reported in (2011)10 SCC 86 (Asha Sharma vs. Chandigarh Administration & ors.)

and I am tempted to reproduce paragraphs 12 to 14 which are as follows:

â??12. Arbitrariness in State action can be demonstrated by existence of different circumstances. Whenever both the decision-making process and

the decision taken are based on irrelevant facts, while ignoring relevant considerations, such an action can normally be termed as â??arbitraryâ?.

Where the process of decision making is followed but proper reasoning is not recorded for arriving at a conclusion, the action may still fall in the

category of arbitrariness. Of course, sufficiency or otherwise of the reasoning may not be a valid ground for consideration within the scope of judicial

review. Rationality, reasonableness, objectivity and application of mind are some of the prerequisites of proper decision making. The concept of

transparency in the decision-making process of the State has also become an essential part of our administrative law.

13. The Government is entitled to make pragmatic adjustments and policy decisions, which may be necessary or called for under the prevalent peculiar

circumstances. The Court may not strike down a policy decision taken by the Government merely because it feels that another decision would have

been more fair or wise, scientific or logical. The principle of reasonableness and non-arbitrariness in governmental action is the core of our

constitutional scheme and structure. Its interpretation will always depend upon the facts and circumstances of a given case. Reference in this regard

can also be made to *Netaji v. State of W.B.*, (2000) 8 SCC 262.

14. Action by the State, whether administrative or executive, has to be fair and in consonance with the statutory provisions and rules. Even if no rules

are in force to govern executive action still such action, especially if it could potentially affect the rights of the parties, should be just, fair and

transparent. Arbitrariness in State action, even where the rules vest discretion in

an authority, has to be impermissible. The exercise of discretion, in line with principles of fairness and good governance, is an implied obligation upon the authorities, when vested with the powers to pass orders of determinative nature. The standard of fairness is also dependent upon certainty in State action, that is, the class of persons, subject to regulation by the Allotment rules, must be able to reasonably anticipate the order for the action that the State is likely to take in a given situation. Arbitrariness and discrimination have inbuilt elements of uncertainty as the decisions of the State would then differ from person to person and from situation to situation, even if the determinative factors of the situations in question were identical. This uncertainty must be avoided.â??

In my opinion, the judgments referred to hereinabove gives a complete answer to the issue posed by Mr. Srivastava while canvassing the grievance raised by the petitioner and since the orders impugned while ear-marking the bungalow in question occupied by the petitioner for the Deputy Chief Minister/ Senior most Minister in the Government, also ear-marks 1, Polo Road, Patna for the leader of Opposition, neither the decision can be held arbitrary or discriminatory or suffering from malice.

The writ petition is dismissed.