

(2006) 05 GAU CK 0055
In the Gauhati High Court

Th.Chaoba Singh

APPELLANT

Vs

State of Manipur and Anr.

RESPONDENT

Date of Decision : 08-05-2006

Acts Referred:

Citation : (2006) 05 GAU CK 0055

Hon'ble Judges : M.B.K.Singh, J

Bench : Single Bench

Advocate : S.Nepolean Singh, N.Kumajit Singh, N.Ibotombi Singh, Ashok Potsangbam, Advocates appearing for Parties

Judgement

1. Heard Mr. N. Kumarjit Singh, learned counsel appearing on behalf of the petitioner, Mr. Asok Potsanbam, learned Advocate General, Manipur, appearing on behalf of the respondent No.1 as well as Mr. N.Ibotombi, learned counsel appearing on behalf of the respondent No.2. I have also perused the pleadings of the parties.

2. In this Writ Petition, the petitioner is praying mainly for issuing a writ in the nature of certiorari for quashing the Government Order No.1/135/2000Est(W) dated 8.2.2006 by alleging, inter alia, that it has been issued illegally, arbitrarily, whimsically and improperly.

3. By the said impugned order, inter alia, Quarter No.1/VII, Babupara, which has been in occupation of the petitioner under an allotment made earlier, has been allotted to the respondent No.2 and thereby canceling the earlier allotment in favour of the petitioner. The impugned order does not state anything about providing an alternative accommodation to the petitioner apparently on the assumption that no accommodation is required to be provided for the petitioner by the State. An "Addendum" to the impugned order is found to have been issued on 4.3.06 stating to the effect that the allotment of Quarter No.1/VII, Babupara to the petitioner is cancelled as he is not presently holding any office of substance. It is ascertained that the respondent No.2, in whose favour the said

quarter has been allotted, was Speaker of the current 8th Assembly of the State of Manipur.

4. The petitioner is a senior politician. He was elected to the Manipur Legislative Assembly a number of times. He was cabinet Minister as well as the Deputy Chief Minister. He was Member of Parliament for 3(three) terms and he was a Minister of State(independent charge) in the Central Ministry led by Shri Atal Bihari Bajpayee (former Prime Minister of India). There is no dispute that because of perception of threat on the petitioner's life, the State Government has been providing security of the status of Z+ category to him for the last some years. There is nothing to show that the concerned Security Review Committee of the State has recommended for reduction of the scale of security provided to the petitioner. There is no dispute that in respect of a person requiring security of the status of Z+ category, special arrangements are normally made at the place where the person resides for facilitating protection of the person effectively. There is, however, dispute about the question if it is obligatory on the part of the State Govt. to provide Govt. quarter to a person requiring security of the status of Z+ category or not irrespective of the fact that if the person is holding any office of substance or not. The respondent No.1 is not in a position to produce any relevant document which will help this Court in deciding the dispute, at the same time, a dispute about the fact if the petitioner is in unauthorized occupation of the said Government quarter or not is now pending before the Supreme Court of India with reference to Civil Appeal No.4064 of 2004.

5. It is also ascertained that the allotment of Quarter No.1/VII in favour of the petitioner was cancelled some years ago also vide Govt. order No.1/135/2000Est(W) dated 24.5.03. Unlike done by the present impugned order dated 8.2.06, at that time, another Quarter being No.7/IVBabupara (Old) was allotted to him in place of the said quarter No.1/VII by the said order dated 24.5.03. The petitioner challenged the order dated 24.5.03 by filing W.P.(C) No.719 of 2003. A single Bench of this Court, vide order passed in the above referred case on 13.6.03, set aside the said Govt. order dated 24.5.03 by holding in effect that the petitioner would be having the right to continue occupation of the Quarter when there was no reason to deprive him of the enjoyment of such right particularly when his life was under threat. The Single Bench observed at para 10 of the judgment:

¶10. In this connection, there is nothing to confront the submission of the respondents that State Government has absolute authority in the domain of administrative policy and actions. But then, at the risk of repetition I like to say that once such power is exercised, rightly or wrongly, in favour of the petitioner it may not be, and should not be withdrawn on a second occasion without any just cause or without giving adequate reasons for taking a different stand on same facts and depriving the petitioner from the right which he was enjoying. At any rate, in such exigency Government will definitely be required to give an opportunity to the petitioner of being heard on the contemplated move and

reasonable time may be given to him for preparation for the unexpected event. It may be particularly mentioned here in this context that the petitioner has raised an allegation that in the change situation of his withdrawing support to the present Government, the impugned order was passed. At any rate, nothing has been shown by the respondents why under the same existing rules the quarter in question allotted to the petitioner it is now going to be altered notwithstanding the rules remaining the same. This will smack a case of impropriety, if not malafide, particularly when it has been clearly mentioned in the rejoinder by the petitioner that the quarter which is going to be allotted to him was previously occupied by another Cabinet Minister. If that be a fact then the present Cabinet Minister can also be accommodated there, if needed, without disturbing the petitioner from his present occupation as a matter of propriety.?

6. According to the learned counsel appearing on behalf of the petitioner, considering the fact of the petitioner, being a person requiring Z+ security, the Govt. of Manipur allotted a very highly improved quarter of the status of Cabinet Minister having two Security Barracks and two Watch Towers at Babupara at the time when he was not an M.L.A. or M.P. in the year, 1998. In C.R.No.29/98 of this Court filed by one Shri Radhabinod Koijam, the then leader of opposition in the Manipur Legislative Assembly and another, it was seriously questioned as to why a highly improved quarter of a Cabinet Minister was allotted to the present petitioner. On perusal of the judgment of the said Civil Rule No.29 of 1998 dated 11.2.98, it is ascertained that, after referring to the relevant pleadings of the parties, the learned Single Judge observed at para 8 of the judgment, ? So far with regard to Shri Th. Chaoba Singh, Ex. M.P.(the present petitioner) it has been stated that in view of the threat perception to his life, he is enjoying Z+ security arrangement and therefore, he has been allowed to occupy the quarter for security reason.?

7. The petitioner has filed an application expressing, in effect, his willingness to shift to a building of his son, Th. Basanta Kumar, situated at Babupara, praying to dispose of the writ petition by allowing him to stay at the said Quarter No.1/VII for three months from the date of disposal of the case for enabling him to make the said building of his son a fit place for housing of a protected person of Z+ security grade by making necessary improvement, construction and renovation etc. of the said building and its compound. This prayer of the petitioner is strongly opposed from the side of the respondent No.1. The learned Advocate General submits that the respondent No.1 is ready to provide accommodation to the petitioner in the Circuit House, where he will be provided the same security, which he is getting, till a reasonable time required for his shifting to the said building of his son. In this regard, petitioner's counsel submits that if the petitioner is to be shifted to the Circuit House as proposed by the learned Advocate General, apart from inconveniences that will surely be caused to him, in the absence of anything to show that there is no quarter where the respondent No.2 can be accommodated other than the said quarter No.1/VII, Babupara, when the petitioner is ready to shift to his son's place and when he

has reasonably requested some time to make arrangement for his security in the said building, it will not be proper to compel the petitioner to shift to the Circuit House even for a short period.

8. Having regards to all the relevant considerations including the facts that the State Government has been providing security of Z+ category to the petitioner for the last some years and that the concerned Security Review Committee of the State has not made any recommendation for reduction of the scale of security provided to the petitioner and that in connection with providing of security of the status of Z+ category, special arrangements such as construction of Security Barrack for accommodation of about 15 security personnel and construction of Watch Tower etc. will obviously be required to be made at the place where the petitioner is to be shifted, in the absence of a specific pleading from the side of the respondent No.1 to the effect that there is no other suitable quarter to which the respondent No.2 may be allotted other than the said quarter No.1/VII where the petitioner has been residing for the last some years, it will be fair, reasonable and just to dispose of this Writ Petition in the manner prayed for by the petitioner.

9. Accordingly, this writ petition is disposed of with the direction that the impugned order No.1/135/2000Est(W) dated 8.2.06 so far as it concerns the Quarter No.1/VII, Babupara is not to be given effect for a period of three months from today. Further, the petitioner is directed to shift to the said building of his son by vacating the said Quarter No.1/VII Babupara at the earliest possible date before the expiry of the period of three months from today.

10. With this direction, this Writ petition stands disposed of. No order as to costs.