

**(2020) 08 J&K CK 0002**

**In the Jammu And Kashmir High Court**

**Case No :** Other Writ Petition No. 1659 Of 2015, IA No. 1 Of 2015

Wakeel Ahmed Batt

APPELLANT

Vs

State Of J&K And Others

RESPONDENT

**Date of Decision :** 14-08-2020

**Acts Referred:**

**Citation :** (2020) 08 J&K CK 0002

**Hon'ble Judges :** Vinod Chatterji Koul, J

**Bench :** Single Bench

**Advocate :** Aseem Sawhney

**Final Decision :** Dismissed

## Judgement

Vinod Chatterji Koul, J

1. The petitioner is a KAS officer of 2012 batch. It is stated that he was posted at Darhal in 2014 and while being posted there he was allotted Government Quarter No. 2 in Block-D Revenue Coloney, Rajouri and on his transfer from Darhal to Poonch the said quarter was allotted to the respondent No. 3-Kanjai Hussain Shah, Election Assistant, DEO Office, Rajouri.

2. The petitioner filed this writ petition, seeking quashing of the order bearing No. GB/691-99 dated 29.05.2015 whereby the quarter in question was allotted to the respondent No. 3, on the ground that the petitioner was transferred to Poonch and as he could not take his family there, his family is still in possession of the quarter in question. His children are studying and it was not possible for him to take them to Poonch in the mid-session. It is stated that no notice was issued to him and he cannot be evicted from the said quarter without adopting the due process of law.

3. This Court vide order dated 06.11.2015 directed the respondents not to take any action for eviction of the petitioner and his family from government accommodation without adopting due course of law.

4. Respondents filed objections and challenged the claim of the petitioner on the ground that the quarter in question was allotted to the petitioner when he was posted as Tehsildar Darhal, District Rajouri as there was no residential accommodation at Darhal. After his transfer to District Poonch, he is not entitled to retain the same and the said quarter has been allotted to the respondent No. 3, who is posted as District Election Officer, Rajouri, for his stay at Rajouri as his services are required even after office hours. It is further stated that the petitioner had also not deducted his HRA from his salary during the period he remained in occupation of the government quarter in question. The respondents have placed on record the drawal statement of the petitioner. It is further stated that petitioner being not posted in District Rajouri, is not entitled to the said quarter and legal procedure has been adopted for the vacation of the quarter. The respondent No. 3 is a resident of Tehsil Koteranka which is 50 km from District Headquarter, as such, quarter in question has been allotted to him.

5. I have considered the writ petition filed by the petitioner as well as the objections filed by the respondents. There is no dispute with regard to the fact that while posted as Tehsildar Darhal, the petitioner was allotted the accommodation at District Headquarter Rajouri because he had no residential accommodation available at Darhal. The petitioner's grievance is that his family is staying in the said quarter and his children are studying in Rajouri, whom he cannot shift during mid-session. The quarter in question was allotted to the petitioner as he was posted as Tehsildar Darhal. He has no right to continue in the said accommodation after he was transferred to District Rajouri. The respondents in their objections have stated that the petitioner had also not deducted HRA while he was in possession of the government accommodation, for which the respondents can taken necessary steps to recover the same from him.

6. This writ petition was filed in the year 2015 and the petitioner had pleaded that since his children are studying in Rajouri, therefore, he cannot shift from there during the mid-session, which ground is not available to him at this stage because more than five years have elapsed.

7. Having regard to the facts and circumstances of the case and that the government accommodation is meant for the accommodation of the officers/officials who are posted in the same district only, the petitioner has no right to retain the said accommodation and in case he is allowed to retain the same, the officers who are posted in the District would be subjected to hardships for want of accommodation. Even otherwise, more than five years have passed when this writ petition was filed.

8. For all what has been discussed and stated above, writ petition is devoid of any merit and is, accordingly, dismissed along with connected IA(s). Interim direction, if any, shall stand vacated.