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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 27th February, 2019

+ W.P.(C) 6855/2018 & C.M.APPLN. 2309/2019

DR. MALLARIKA SINHA ROY AND ORS. Petitioners

Through Mr.Ranvir Singh, Adv. with
Mr.Rahul Chaprana, Adv.

versus

JAWAHARLAL NEHRU UNIVERSITY AND ORS.

..... Respondents

Through Ms.Monika Arora, Standing counsel
with Mr.Harsh Ahuja, Mr.Kushal
Kumar & Mr.Praveen Singh, Adv.
with Mr.Naveen (officer) for JNU.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (O R A L)

1. The main prayer in the present petition is to quash and set aside orders dated 19.12.2016, 16.03.2017, 05.04.2017, 24.08.2017, 19.09.2017 and 01.06.2018 whereby the term of the petitioners as Wardens of the various hostels has been expired.

2. Annexure P-10 speaks about the terms of the wardens in some other cases where Dr.Ram Nath Jha has been warden of Sutlej hostel for 16 years, Dr.Sunita Reddy of Godavari hostel for 14 years, Dr.Rajan Kumar of

Narmada hostel for 12 years, Dr.Mahesh Ranjan Dabatta of Narmada hostel for 8 years and Dr.Pratima Solanki the warden of Shipra hostel for 6 years and the petitioners remain for the period as mentioned in the below table.

CHART

Sl. No.	Name	Date of Appointment as Warden	Date of Truncated Renewal (Duration)	Termination Date
1	Dr.Mallarika Sinha Roy (Petitioner No.1)	13.12.2012	19.12.2016 (1 Year)	19.02.2018 (Letter received)
2	Dr.A. Bimol Akoijam (Petitioner No.2)	22.02.2013	21.02.2017 (1 Year)	23.02.2018 (Letter received)
3	Prof. Sujoy Chakravarty (Petitioner No.3)	13.12.2012	02.01.2017 (1 Year)	19.02.2018 (Letter received)
4	Dr.Himanshu (Petitioner No.4)	28.12.2012	NO EXTENSION	19.02.2018 (Letter received)
5	Dr.Rohit (Petitioner No.5)	13.10.2015	12.10.2017 (6 Months)	12.04.2018 (Letter received)
6	Dr.Rajarshi Dasgupta (Petitioner No.6)	01.07.2013	01.07.2017 (1 Year)	30.05.2018 (Letter received)

3. As per the said table, petitioner no.1 remained as warden from 13.12.2012 to 19.02.2018, petitioner no.2 from 22.02.2013 to 23.02.2018, petitioner no.3 from 13.12.2012 to 19.02.2018, petitioner no.4 from 28.12.2012 to 19.02.2018, petitioner no.5 from 13.10.2015 to 12.04.2018

and petitioner no.6 from 01.07.2013 to 30.05.2018 of respective hostels.

4. It is not in dispute that as per the academic ordinance which is updated upto 01.01.2016, the period of a warden is for two years in the first instance and the said period is renewable on the recommendation of the Provost to the Dean of Students. However, the Vice Chancellor may terminate the assignment of the wardens by giving atleast one month's notice.

5. After receiving the communication dated 19.02.2018, 23.02.2018, 19.02.2018, 12.04.2018 and 30.05.2018, the petitioners herein protested on the ground that some wardens as mentioned above, remained 8 years to 16 years as wardens. At last, they filed the present petition for the directions mentioned above.

6. It is not in dispute that the final authority is the Vice Chancellor to renew the tenure of the wardens and is not bound by the recommendation of the Provost and the Dean. Since on the recommendation of the Provost, as per the history of the JNU, the Vice Chancellor in majority of cases agreed to extend the tenure of the warden, so the petitioners had also hoped that the recommendation of the Provost would be accepted by the Vice Chancellor. Therefore, they continued in the respective hostels and protested the issue

before this Court and the authority as well.

7. It is also not in dispute that during the pendency of the present petition, all the petitioners except petitioner no.2 have vacated the premises of the wardens occupied by them but the respondents imposed penal market rent upon the petitioners.

8. Ms.Monika Arora, learned counsel for the respondents submits that in the communication dated 01.06.2018, it was mentioned as under:

“1.5 The Wardens for Hostels shall be appointed by the Vice-Chancellor on the recommendation of the Provost to the Dean of Students for a period of two years in the first instance. The term would be renewable on the recommendation of the Provost to the Dean of Students. The Vice-Chancellor may, however, terminate the assignment of the Warden by giving at least one month’s notice.

The meeting noted that all the petitioner Wardens have been given extensions for one or two tenures. In their interaction with the Vice-Chancellor, Rectors, Dean of Students, they were told that it was time to have a new team of Wardens and that further renewal of their terms was not possible. They were communicated about this. But these Wardens have not vacated the Warden’s Flats so far, even though new Wardens have been appointed. The new wardens are discharging their duties but still waiting for taking possession of Wardens’s Flats.

After considering all the aspects of the Petitioner’s representation in the aforesaid meeting, it was pointed out that the power to appoint Wardens and extension of their tenures is vested with the Vice-Chancellor. The Wardens appointed for a fixed term do not have any right to continue against the tenure positions indefinitely.”

9. Despite above, the petitioners continued in the accommodation of the wardens of respective hostels, thereafter the respondents imposed penal rent upon the petitioners.

10. As mentioned above, all the petitioners have already vacated the premises except petitioner no.2 who had some personal and serious difficulty in the family, however, he has given undertaking on 24.12.2018 that he will be shifting out of the wardens accommodation by the end of January 2019 without fail on the high hope that he would get another accommodation in the University Campus for which he is otherwise eligible and entitle. However, the respondents have not published any list in this regard.

11. Counsel for the petitioner, on instructions, submits that the petitioner is ready to vacate the accommodation and seek one month time due to the terminal illness of the family members.

12. Petitioner no.2 is personally present in the Court who has given undertaking before this Court that he shall vacate the accommodation in question within one month from today.

13. Since in past, on the recommendation of the Provost, the extension of warden was normally extended by few exceptions, therefore, the petitioners

had high hope that their tenure will not be terminated and they will get the extension for the post of warden, therefore, they continued in the accommodation in question.

14. Keeping in view the facts and circumstances of the case and the fact that this type of issue has come up before the university first time, therefore, I am of the considered view that the respondents should have large heart being petitioners their own professors and the penal rent imposed upon the petitioners may not be recovered from them.

15. Accordingly, I hereby dispose of the present petition directing the petitioner no.2 to vacate the accommodation in question and direct the respondents not to recover the penal market rent from the petitioners.

16. The petition is, accordingly, disposed of.

17. I hereby make it clear that if the petitioner no.2 does not vacate the premises within the time as per the undertaking, he shall be liable to pay penal rent as per the market rent.

SURESH KUMAR KAIT, J

FEBRUARY 27, 2019
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