

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No. 729 of 2021

Thingbaijam Deben Singh, aged about 50 years, S/o
Thingbaijam Damu @ Damudor Singh of
Thangmeiband Hljam Leikai, P.O. Imphal & P.S.
Lamphel, Imphal West District, Manipur, Pin 795001.

...Petitioner

-Versus-

1. The State of Manipur represented by the Addl. Chief Secretary (Works)-cum-Estate Officer, Government of Manipur, P.O. & P.S. – Imphal, Imphal West District, Pin No. 795001.
2. The Executive Engineer, Building Division-II PWD, Government of Manipur, P.O. & P.S. – Imphal, Imphal West District, Pin No. 795001.
3. The Director, Family Welfare Services, Government of Manipur, P.O. & P.S. – Imphal, Imphal West District, Pin No. 795001.
4. The Sub Divisional Officer, Imphal West District, Government of Manipur, P.O. & P.S. Lamphel, Imphal West District, Manipu, Pin 795001.
5. Irengbam Prabinkumar Singh, Information Assistant O/o DIPR, Government of Manipur & P.S. Imphal, Imphal West District, Manipur, Pin 795001.

.... Respondents

6. Angomjambam Sunita Devi, aged about 42 years,
D/o (L) Angomjambam Bidhu Singh of U P.O. & P.S.
Imphal, Imphal West District, Manipur, Pin 795001.

.... Proforma Respondents

BEFORE
HON'BLE THE ACTING CHIEF JUSTICE MR. M.V. MURALIDARAN

For the Petitioners	::	Mr. S. Rupachandra, Sr. Adv.
For the Respondents	::	Mr. H. Samarjit, GA for R- 1 to 4 Mr. H. Chandrakumar, Adv. for R- 5 and 6.
Date of Hearing and reserving Judgment & Order	::	05.10.2023
Date of Judgment & Order	::	13.10.2023

JUDGMENT AND ORDER
(CAV)

Heard Mr. S. Rupachandra, learned senior counsel for the petitioner; Mr. H. Samarjit, learned Government Advocate for the official respondents No. 1 to 4 and Mr. H. Chandrakumar, learned counsel for the respondents No. 5 and 6.

2. This writ petition has been filed by the petitioner to quash portion of the order dated 8.3.2021 and to allow the petitioner and his family to stay in the allotted Quarters being No.Type-III/F-57 at Langol Housing Complex.

3. The case of the petitioner is that he is working as driver in the Directorate of Family Welfare Services, Government of Manipur. He has been allotted Quarters being Type-III/F-57 at Langol Housing Complex vide order dated 24.9.1999. While he was occupying the said quarters, he and his mother and father got inflicted with ailments one after another since the year 2017. During treatment of the petitioner, his mother and father, the petitioner stayed at his own house leaving the quarters and the petitioner allowed one of his relatives, namely the sixth respondent, as the family caretaker of it. During the second wave of Covid, the first respondent issued the impugned order cancelling the quarters allotted to the petitioner without giving any notice to him. On 7.8.2021, the petitioner submitted a representation to the first respondent stating that he has been occupying the quarters for more than 15 years and rents have been deducted regularly from his salary and he left it by keeping a family caretaker.

4. Further case of the petitioner is that Eviction Case No.8 of 2021 was taken up by the fourth respondent in respect of the quarters in question wherein the second respondent and sixth respondent are parties. Even if the eviction case is to be taken up, it should be between the petitioner and the Government authority, inasmuch the said impugned order does not allow the authority to

hand over the quarters to the fifth respondent. The petitioner was served with summon on 11.10.2021 thereby asking his personal appearance before the fourth respondent on 18.10.2021. Since the petitioner could not appear, he sent his wife and submitted an application requesting to give him 15 days time as the process for continuation of the quarters allotted to him is going on. The quarters in question was locked by the officials on 8.10.2021. On 18.10.2021, the petitioner submitted a representation to the authority. Despite receipt of the said representation, the authority has not passed any order till date. Hence, the writ petition.

5. The respondents 1 and 2 filed affidavit-in-opposition stating that the petitioner has sublet the quarters in question to Sovita Devi an unknown person and at that point of time, there was an outstanding due of Rs.48,200/- as licence fee i/c 2% surcharges as per the office record of the Executive Engineer, BD-II, PWD. It is stated that the present occupant who was sublet by the petitioner is an unauthorized person and to be vacated from the quarters as the said quarters is required to be handed over the new allottee Irungbam Prabikumar Singh. As the present occupant is an unauthorized occupant, the eviction process is being taken up by the Sub Divisional Officer, Lamphel. Hence, prayed for dismissal of the writ petition.

6. The fifth respondent filed affidavit-in-opposition stating that after making an enquiry, the Executive Engineer, Building Division-II, PWD, submitted a status report dated 10.2.2021 to the Under Secretary (Works), Government of Manipur, stating that Quarters No.Type-III/F-57 which was allotted to the petitioner vide order dated 14.1.2000 was found to have been occupied by one unauthorized person namely Angomjambam Sunita Devi from Uripok. On the recommendation of the House Allotment Committee in its meeting held on 2.3.2021, the Quarters Type-III/F-57 earlier allotted to the petitioner was cancelled and the same was temporarily allotted to the fifth respondent vide order dated 8.3.2021 and the said order is still valid. The medical grounds or the ailments of the petitioner's parents as well as himself have nothing to do with the present case, as the said quarters is illegally occupied by someone other than the petitioner. The sixth respondent is in occupation of the quarters illegally without any authority. Finding that someone is in occupation of the quarters, the concerned authority had taken up an eviction case against the illegal occupant to evict from the said quarters. On 10.9.2021, the petitioner and the sixth respondent appeared before the SDO, Lamphel and the petitioner admitted the fact that his allotment was cancelled. The petitioner and the sixth respondent requested the authority few more days to vacate the quarters voluntarily by 18.10.2021, failing

which they have no objection in the eviction carried out by the concerned authorities. Hence, prayed for dismissal of the writ petition.

7. Assailing the impugned order, Mr. S. Rupachandra, the learned senior counsel for the petitioner submitted that the petitioner was allotted quarters being Type-III/F-57 at Langol Housing Complex on 24.9.1999 and while he was occupying the said quarters, he and his parents got inflicted with ailments and for treatment purpose all of them were stayed at their own house allowing the sixth respondent who is his relative to take care of it. While so, during the second wave of Covid i.e. on 8.3.2021, the first respondent issued the impugned order cancelling the quarters allotted to the petitioner without giving any notice to him.

8. According to the learned senior counsel for the petitioner, the petitioner has been occupying the quarters for more than 15 years and rents have been deducted regularly from his salary and he left the quarters by keeping the caretaker and the petitioner never sublet the quarters to the sixth respondent.

9. The learned senior counsel further submitted that the eviction case was taken up behind the back of the petitioner and even if the eviction case is to be taken up, it should be between the

petitioner and the Government authority. The petitioner was served with summon in the eviction case for appearance on 11.10.2021 and the quarters was locked on 8.10.2021. On 18.10.2021, the petitioner submitted a representation to the concerned authority and despite receipt of the same, no order has been passed on it till date. Thus, a prayer has been made to quash the impugned order and to allow the petitioner to stay in the quarters being Type-III/F-57 at Langol Housing Complex.

10. Per contra, Mr. H. Samarjit, the learned Government Advocate for the respondent State submitted that the petitioner has sublet the quarters to the sixth respondent and that there was an outstanding due of Rs.48,200/- as per the records maintained by the Executive Engineer, Building Division-II. The sixth respondent who was in occupation of the quarters in question is an unauthorized occupant and she should be vacated from the said quarters. Since the sixth respondent is an unauthorized occupant, the eviction case was registered and eviction process is being taken up by the SDO, Lamphel. The learned Government Advocate submitted that on the recommendation of the House Allotment Committee, the quarters in question was allotted to the fifth respondent. Therefore, there is no bonafide in the claim made by

the petitioner. Thus, a prayer has been made to dismiss the writ petition.

11. Mr. H. Chandrakumar, the learned counsel for the fifth respondent submitted that after making enquiry, the Executive Engineer, BD-II, PWD submitted a status report to the Under Secretary (Works) stating that the quarters earlier allotted to the petitioner was occupied by the sixth respondent unauthorisedly and that on the recommendation of the House Allotment Committee, the quarters in question was allotted to the fifth respondent cancelling the allotment made in favour of the petitioner. In fact, in the eviction case, the petitioner and the sixth respondent appeared before the SDO and agree to vacate the quarters voluntarily by 18.10.2021. Despite the assurance given in the eviction case, with an ulterior motive, the present writ petition has been filed. Since the allotment in favour of the petitioner has been cancelled, he has no right to seek permission to stay in the quarters along with his family members. Thus, a prayer has been made to dismiss the writ petition.

12. This Court considered the rival submissions and also perused the materials available on record.

13. The grievance of the petitioner is that the impugned order has been passed without notice to the petitioner. The locking of the quarters in question on 8.10.2021 is without the knowledge of the petitioner.

14. On the other hand, it is the plea of the respondents 1 and 2 that the petitioner sublet the quarters in dispute to the sixth respondent and since the present occupant is an unauthorized person, the respondent authorities have initiated eviction proceedings. According to the respondents 1 and 2, as per the records maintained by the Executive Engineer, BD-II, PWD, Manipur, there was an outstanding due of Rs.48,200/-.

15. Similarly, it is the plea of the fifth respondent that the allotment of the petitioner was cancelled, as he sublet the quarters to the sixth respondent and upon considering the application of the fifth respondent, the quarters in question was allotted to the fifth respondent cancelling the allotment made in favour of the petitioner. In fact, in the eviction case, the petitioner and the sixth respondent appeared and undertook to vacate the quarters by 18.10.2021 voluntarily, failing which they have no objection in the eviction carried out by the concerned authorities. The allotment given to the petitioner was cancelled lawfully and the same was allotted to the fifth respondent by following all the norms and procedures.

16. The petitioner is working as driver in the Directorate of Family Welfare Services, Government of Manipur and he has been allotted quarters Type-III/F-57 at Langol Housing Complex on 24.9.1999. The said quarters allotted to the petitioner was cancelled by the first respondent under the impugned order alleging that the petitioner sublet the quarters to the sixth respondent. According to the petitioner, during the second wave of Covid, the petitioner and his parents stayed in their own house leaving the quarters for time being and allowed the sixth respondent as their family caretaker to stay in the said quarters. According to the petitioner, he never sublet the quarters to the sixth respondent.

17. In the impugned order, it has been stated that, on the recommendation of the House Allotment Committee, the quarters Type-III/F-57 at Langol Housing Complex allotted to the petitioner was cancelled and the same is temporarily allotted to the fifth respondent, who is working as Information Assistant in the office of DIPR, Manipur.

18. It is prerogative of the concerned authority to cancel and allot a Government quarters depending upon the policy of the authority and especially when the allotted quarters has been occupied by someone other than the one who is actually allotted to.

19. In the case on hand, as rightly argued by the learned counsel for the petitioner, before issuing the impugned order cancelling the allotment of quarters, no notice was served upon the petitioner. Nothing has been produced by the respondent authorities to show the department was informed about the alleged sublet by the petitioner. The recommendation of the House Allotment Committee stated in the impugned order has not been placed on record. It is the bounden duty of the respondents 1 and 2 to call for explanation/remarks from the petitioner before cancelling the allotted quarters, as he was occupying the quarters right from 1999. The impugned order also does not speak about the alleged sublet to the sixth respondent by the petitioner. In the absence of any prior notice to the petitioner, the impugned cancellation order made against the petitioner is not legally sustainable and thus the first respondent has violated the principles of natural justice. In this regard, the law is well settled that principles of natural justice are those rules which have been laid down by the Courts as being the minimum protection of the rights of the individual against the arbitrary procedure that may be adopted by a judicial, quasi-judicial and administrative authority while making an order affecting those rights. These rules are intended to prevent such authority from doing injustice. Before cancellation of the allotment, sufficient opportunity was not afforded to the petitioner

and, as stated supra, any order passed behind the back of the party affecting his rights is nullity in law.

20. On a perusal of the records, it is seen that the spot inspection and noting down of the staying of the sixth respondent in the quarters in question are all subsequent to the passing of the impugned order. Nothing has been produced by the respondent authorities to show that before issuing the impugned order, any inspection is made by them.

21. In the notice dated 24.4.2021 annexed to the writ petition, the Sub Divisional Officer, Lamphel stated that spot enquiry has been conducted by the SDC/IW (Central vide letter No.8/SDC/IW(C)/ Evict/2020/28 dated 22.04.2021 and it has been reported that the Govt. Quarter No.T-III/F-57 at Langol Housing Complex is being occupied unauthorisedly by Angomjambam Sunita Devi. From the said notice also, it is clear that after issuing the impugned order only, spot enquiry was conducted. The affidavit-in-opposition filed by the respondents 1 and 2 does not speak about the spot enquiry conducted by the authorities before issuing the impugned order.

22. By relying upon the letter of the Executive Engineer, BD-II dated 10.2.2021, the learned Government Advocate

contended that the Assistant Engineer-II of Building Division reported that Quarters Type-III/F-57 allotted to the petitioner does not physically occupy since a long time back and sublet to the sixth respondent and there is an outstanding due of Rs.48,200/- as licence fee i/c 2% surcharges as per the office record. The said status report dated 10.2.2021 has not been communicated to the petitioner nor called for any explanation from the petitioner. There is no whisper about the status report dated 10.2.2021 in the impugned order. When the rent is automatically deducted from the monthly salary of the petitioner, how it could be said that there is outstanding due of Rs.48,200/-. This has not been clarified by the respondents 1 and 2. In the case on hand, there appears to be a real prejudice caused to the petitioner for issuance of the impugned cancellation order. Thus, on the sole ground of violation of the principles of natural justice, the impugned order is liable to be quashed.

23. Insofar as the initiation of the eviction case by the Sub Divisional Officer, Lamphel is concerned, the learned counsel for the petitioner submitted that the fourth respondent has taken up the eviction case, wherein the second respondent and the sixth respondent alone shown as parties. According to the learned

counsel, if any eviction case is to be initiated, it should be between the Government authorities and the petitioner.

24. At this juncture, the learned counsel for the fifth respondent argued that pursuant to the summons issued to the petitioner and the sixth respondent, they appeared before the SDO, Lamphel and agreed to vacate the quarters by 18.9.2021 and the said promise has not been honoured and, again on 18.10.2021, the wife of the petitioner appeared before the SDO and it was agreed to vacate the quarters by 21.10.2021. According to the learned counsel for the fifth respondent, contrary to the undertaking, the petitioner has filed the writ petition. Therefore, the same cannot be entertained.

25. The prayer in the writ petition is to quash the impugned order dated 8.3.2021 and to allow the petitioner and his family members to stay in the allotted quarters being Type-III/F-57. This Court already held that the impugned order has been passed without notice to the petitioner and therefore the same is not legally sustainable and in violation of the principles of natural justice. In view of the above finding arrived at by this Court, any proceedings, much less the eviction case, initiated in respect of the quarters Type-III/F-57 cannot be looked into, as the very basis of the cancellation order is suffer from the principles of natural justice.

26. It appears that the writ petition has been filed on 22.10.2021. On 25.10.2021, when the writ petition was taken up for hearing, this Court, while noting down the appearance of the respective counsel, ordered status-quo as of today shall be maintained by both the parties. According to the respondents, the quarters in question was locked on 8.10.2021.

27. Pending writ petition, the petitioner filed MC (WP(C)) No.98 of 2022 praying to allow the petitioner and his family members to enter and occupy the quarters in question or stay of the operation of the impugned order dated 8.3.2021 alleging that the quarters in question was locked by the respondents on 8.10.2021 and inside the quarters, lot of belongings are there. If the petitioner is not permitted to enter into the quarters, the belongings of the petitioner will be damaged and destroyed by rats, fungus etc. It is also the plea of the petitioner that though the petitioner is not occupying the quarters, the authority is regularly deducting the rent for the quarters from the salary of the petitioner. In support, the learned counsel for the petitioner has produced certain challans pertaining to the year 2022. This has not been controverted by the respondent authorities. According to the parties, the quarters is under lock for the past two years. As rightly argued by the learned counsel for the petitioner, the belongings kept inside the quarters

will naturally got damaged and destroyed when they are not in use properly. Further, it is not the case of the respondent authorities, that despite the request to take back the belongings inside the quarters, the petitioner has not come forward and take back the belongings kept inside the quarters.

28. This Court held that the impugned order, thereby cancelling the allotment of quarters in favour of the petitioner, is in violation of principles of natural justice. Since no notice was issued to the petitioner before passing the impugned order, this Court is of the firm view that on the sole ground of violation of the principles of natural justice, the impugned order is liable to be set aside. Since the impugned cancellation order is not sustainable in the eyes of law, the respondent authorities are to allow the petitioner to occupy the quarters in question. The allotment of the quarters in question made in favour of the fifth respondent will not affect the rights of the petitioner, as by infringing the rights of the earlier allottee, no new allotment cannot be issued.

29. In the result,

- (i) The writ petition is allowed.
- (ii) The impugned order dated 8.3.2021 passed by the first respondent is set aside.

- (iii) The matter is remanded back to the first respondent with a direction to the said authority to enquire into the matter and pass appropriate order after affording reasonable opportunity to the petitioner on merits and in accordance with law.
- (iv) The said exercise is directed to be completed within a period of three months from the date of receipt of a copy of this order.
- (v) Till such time, the respondent authorities are directed to allow the petitioner and his family members to occupy the quarters in question.
- (vi) No costs.
- (vii) Consequently, MC (WP(C)) No.98 of 2022 is closed.

ACTING CHIEF JUSTICE

FR/NFR

Sushil