

**Court No. - 20**

**Case :-** WRIT - A No. - 8655 of 2023

**Petitioner :-** Vijay Lakshmi

**Respondent :-** State Of U.P. Thru. Addl. Chief Secy. Deptt. Of Labour Lko. And 3 Others

**Counsel for Petitioner :-** Shivanshu Mishra, Amol Kumar  
Srivastava, Shivang Dwivedi

**Counsel for Respondent :-** C.S.C.

**Hon'ble Manish Mathur, J.**

1. Heard learned counsel for petitioner and learned State Counsel appearing on behalf of opposite parties.
2. Petition has been filed challenging orders dated 16.08.2022, 26.09.2022 and 21.04.2023 whereby recovery has been initiated against petitioner for alleged unauthorized occupation of Government accommodation.
3. It has been submitted that petitioner was initially appointed on the post of 'Aaya' in the department on substantive basis and in pursuance of oral allotment orders, was granted possession over a Type II accommodation which she continued to reside in till the date of her superannuation on 30.04.2020. It is submitted that thereafter impugned orders have been passed without affording any opportunity of hearing to petitioner.
4. Learned State counsel on the basis of written instructions dated 03.10.2023, which is taken on record, submits that petitioner was entitled only to a Type I accommodation and she has deliberately obtained possession over the Type II accommodation to which she was not entitled and therefore impugned orders have been passed. It is also submitted that petitioner was issued a show cause notice dated 04.04.2022 to which she did not submit any reply and therefore orders have been passed.
5. Upon consideration of submissions advanced by learned counsel for parties and perusal of material available on record, it appears from the impugned orders themselves that there does not appear to be any indication of any show cause notice having been issued to petitioner or providing any opportunity of hearing to her prior to initiating recovery against her pensionary benefits. It is also evident that such show cause notice, if issued, even otherwise is after almost 27 years of the alleged illegal occupation by petitioner. The impugned order also does not indicate the fact whether petitioner was entitled to such accommodation or not. In fact the impugned order is

completely non-speaking in nature.

6. Considering the aforesaid facts, impugned orders dated 16.08.2022, 26.09.2022 and 21.04.2023 are hereby quashed by issuance of a writ in the nature of certiorari granting liberty to opposite party to pass fresh orders but only after affording opportunity of hearing to petitioner.

7. A copy of show cause notice dated 04.04.2022 has been supplied to Mr. Amol Kumar, learned counsel for petitioner today itself. The petitioner as such is granted three weeks' time to submit her reply to same before opposite party no.3 i.e. Chief Medical Officer, Employees State Insurance Maternal Child Hospital, Sarvoday Nagar, Kanpur. Concerned authority shall pass final order with regard to proceedings after considering petitioner's reply and affording her an opportunity of hearing.

8. Resultantly, petition succeeds and is **allowed at the admission stage itself.**

**Order Date :- 7.11.2023**

Subodh/-