

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

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Date of decision: 30th July, 2015

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AMBIKA SONI **W.P.(C) No.5913/2015**

..... Petitioner

Through: Mr. KTS Tulsi, Sr. Adv. with Mr. Gaurave Bhargava & Mr. Kuber Bodd, Adv.

Versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Sanjay Jain, ASG with Mr. Jasmeet Singh, CGSC, Mr. Akash Nagar, Mr. Shreshth Jain, Ms. Kritika Mehra & Ms. Aastha Jain, Adv. for UOI.

Mr. J.P. Sengh, Sr. Adv. with Ms. Zubeda Begum, Ms. Sana Ansari & Ms. Vanessa Singh, Adv. for R-4/Rajya Sabha Secretariat.

Mr. Rajiv K. Garg and Mr. Ashish Garg, Adv.

AND

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KUMARI SELJA **W.P.(C) No.5918/2015**

..... Petitioner

Through: Mr. KTS Tulsi, Sr. Adv. with Mr. Gaurave Bhargava & Mr. Kuber Bodd, Adv.

Versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Sanjay Jain, ASG with Mr. Jasmeet Singh, CGSC, Mr. Akash Nagar, Mr. Shreshth Jain, Ms. Kritika Mehra & Ms. Aastha Jain, Adv. for

UOI.

Mr. J.P. Sengh, Sr. Adv. with Ms. Zubeda Begum, Ms. Sana Ansari & Ms. Vanessa Singh, Advs. for R-4/Rajya Sabha Secretariat.

CORAM:-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

1. The petitioners belong to the Indian National Congress Party (INC) and are former Union Cabinet Ministers and now are Members of Rajya Sabha. They have filed the petitions impugning notices, both dated 5th May, 2015, of the Directorate of Estate (DoE), Ministry of Urban Development (MUD), Government of India, cancelling the allotment of Type-VIII, Bungalow No.22, Akbar Road, New Delhi and Bungalow No.7, Moti Lal Nehru Marg, New Delhi in their respective names and allotting Type-VII, Bungalow No.84, Lodhi Estate, New Delhi and Bungalow No.AB-14, Mathura Road, New Delhi to the petitioners respectively.

2. Vide order dated 5th June, 2015 of the Vacation Judge, notice of both the petitions was issued and in the interregnum operation of the impugned notices dated 5th May, 2015 stayed.

3. Counter affidavits have been filed by the respondents No.1 to 3 i.e. Union of India, DoE, Estate Officer as well as by respondent No.4 Rajya

Sabha Secretariat (RSS) and rejoinders to the counter affidavit of respondents No.1 to 3 has been filed.

4. The senior counsel for the petitioners, learned ASG for the respondents No.1 to 3 and the senior counsel for the respondent No.4 RSS were heard on 2nd July, 2015 and judgment reserved.

5. The senior counsel for the petitioners argued with respect to W.P.(C) No.5918/2015 stating that the position in the other writ petition is identical / similar. It was argued, i) that the petitioner therein was elected to the Rajya Sabha from Haryana in January-February, 2014; ii) that consequent to approval of the competent authority, the DoE under the MUD vide letter dated 10th March, 2014 placed General Pool Bungalow No.7, Moti Lal Nehru Marg, New Delhi in the Rajya Sabha Pool on revert-back basis, for specific allotment to the petitioner in her capacity as a Member of Rajya Sabha as regular accommodation; iii) that on 11th April, 2014, the RSS allotted the said bungalow to the petitioner in her capacity as a Member of Rajya Sabha, till her retirement or her ceasing to be a Member of the House; iv) that on 26th May, 2014, upon composition of the 16th Lok Sabha, a new Union Council of Ministers was sworn in; v) that though the term of the

petitioner in the Rajya Sabha is till 2020 but the DoE had vide impugned notice dated 5th May, 2015 unilaterally cancelled the allotment of the said Type-VIII bungalow, without notice to the petitioner, and allotted Type-VII bungalow to the petitioner.

6. The senior counsel for the petitioners contended:

- (a) that the purpose of constituting a Rajya Sabha Pool of Accommodation separately from the General Pool is frustrated if the DoE under the MUD without permission of the House Committee of the Rajya Sabha which alone can cancel the allotment of a house made from Rajya Sabha Pool of Accommodation, is permitted to cancel the allotment; that the intent of creating a different pool of accommodation for Legislature was to protect it from the Executive;
- (b) that once a General Pool house has been vested in the Rajya Sabha Pool of Accommodation, the DoE under the MUD cannot cancel the allotment thereof made by the RSS; that a minister cannot act qua a pool house belonging to the

Legislature without the consent of the House Committee dealing with that pool;

- (c) photocopy of Chapter XVII-C titled House Committee, of “Rules of Procedure and Conduct of Business in the Council of States” was handed over to show that there has to be a House Committee of 10 members nominated by the Chairman with the function *inter alia* of dealing with all matters relating to residential accommodation of the Members and it was contended that the cancellation of a house allotted to a member of the Rajya Sabha by virtue of such membership can only be with the consent of the said House Committee and which House Committee had not even been approached;
- (d) that allotment of a house is a perquisite of a Rajya Sabha Member;
- (e) that the DoE has thus committed a breach of privilege of the Rajya Sabha and in which respect representation has already been made and the Chairman of the House Committee had also written to the MUD in this regard; that even otherwise the DoE

had not given any notice to the Rajya Sabha Housing Committee of revoking the earlier vesting of the house in the Rajya Sabha Pool of Accommodation;

- (f) that such actions of the DoE under the MUD now under the control of the Bharatiya Janta Party (BJP) is with an intent to prevent the petitioners from performing their duties and functions as members of the Opposition Party;
- (g) that this is also evident from the petitioners, being member of the political party in opposition, being targeted, victimized and discriminated against; that there were several other persons including Ex-Members of the Rajya Sabha wrongfully retaining accommodation but no action had been taken against them and the respondents No.1 to 3 cannot be permitted to follow a policy of pick and choose;
- (h) reliance in this regard was placed on ***S.D. Bandi Vs. Divisional Traffic Officer, KSRTC*** (2013) 12 SCC 631 and it was contended that an objective criteria has to be followed and the

petitioners cannot be picked up for action merely because they belong to the political party in opposition;

- (i) that as per the terms and conditions of allotment of the said house to the petitioner, the allotment could be cancelled either upon the petitioners ceasing to be Members of the House or committing any breach of any of the terms of allotment;
- (j) that it was not the allegation of the respondents No.1 to 3 that the petitioner had committed any breach;
- (k) reliance was placed on *Mrs. Asha Sharma Vs. Chandigarh Administration* (2011) 10 SCC 86 to contend that there could be no arbitrariness in State action;
- (l) that the Parliament will not be able to function if the Executive is allowed to ride roughshod;
- (m) that if the said state of affairs is allowed to continue, the same will sound the death knell for democracy in the country;

7. It was enquired from the senior counsel for the petitioners, how the performance of the petitioners as a Member of the Rajya Sabha or as a

member of political party in opposition was dependent on whether a Type-VIII or a Type-VII house is allotted to them. It was further enquired, whether the belief and faith of the petitioners in the ideology of the political party to which they belong or their sense of duty as Members of the Rajya Sabha was so weak, to be effected by the fact whether they are allotted a house or not or whether they are allotted a Type-VIII house or a Type-VII house. It was further put to the senior counsel for the petitioners whether the duties and obligations of the petitioners as Members of the Rajya Sabha and as representative of the people of the State which had elected them, were dependent upon whether they are given a bigger house or a smaller house.

8. The senior counsel for the petitioners of course could not answer in the affirmative.

9. It was then enquired, as to how could it be said that the taking away of a Type-VIII house and instead thereof giving of Type-VII house to the petitioners could be said to be sounding a death knell for democracy and whether these petitions, concerned merely with allotment of one or the other type of house, called for a political twist and colour being given to the matter.

10. The senior counsel for the petitioners however contended that the matter requires such arguments.

11. The right in law of the petitioners, to retain the Type-VIII houses was then enquired.

12. Attention was invited by the senior counsel for petitioners to the letter dated 10th March, 2014 of the DoE, to the RSS, conveying the approval of the competent authority for the placement of General Pool Bungalow No. 7, Moti Lal Nehru Marg, New Delhi at the disposal of the Rajya Sabha Pool on revert-back basis for specific allotment to the petitioner as member of Rajya Sabha and further stipulating that on vacation of the bungalow by the petitioner, the bungalow shall revert-back to the General Pool and the RSS shall not allot it to any other person. Attention was also invited to the letter dated 11th April, 2014 of the RSS allotting the said accommodation to the petitioner as regular accommodation and with the stipulation that the petitioner could retain it for a maximum period of one month after retirement, resignation, removal or otherwise on ceasing to be a Member of Parliament. On the basis thereof it was contended that the DoE having vested it in the Rajya Sabha Pool for allotment to the petitioner and to be

reverted back only on the petitioner ceasing to be a Member of the Rajya Sabha and the RSS having allotted the said house to the petitioner with the condition that she could not retain it after one month of ceasing to be a Member of Parliament, the house could not be taken away before that.

13. It was however enquired from the senior counsel whether not the right of the RSS as well as of the petitioner was at best as of a licensee and whether not such licence was revocable at any time and the remedy for wrongful revocation could at best be damages, as provided in Section 64 of the Indian Easements Act, 1882.

14. Arguments again of the action being political and anti-democratic were raised. Reliance was also placed on para 7 of *Smt. Ganeshi Bai Vs. Union of India* 2005 (83) DRJ 1 where a Single Judge of this Court observed that while there may be urgency in ejecting persons from public premises but this urgency could not ride roughshod over the basic requirements of social dealings which required giving of an opportunity; it was argued that no opportunity had been given to the petitioner and straightaway cancellation order had been issued. Reliance was also placed on para 24 of *State of Punjab Vs. V.K. Khanna* (2001) 2 SCC 330 on the

dereliction of duty by a government servant. Reference was made to para 9 of *Wing Cdr. (Dr.) Sushil Kumar Vs. Union of India* MANU/DE/9804/2006 on the aspect of *mala fides* in the jurisprudence of power. Though in the compilation handed over, copies of *Harbanslal Sahnia Vs. Indian Oil Corporation Ltd.* (2003) 2 SCC 107 and *S. Rajdev Singh Vs. Union of India* ILR (1990) 2 DEL 220 are also contained but no reference was made thereto.

15. The senior counsel for the petitioners also invited attention to Annexure-P9 to the petition being Clause 4.18 of Handbook for Members of Rajya Sabha which entitles the Members of Rajya Sabha to apply for regular residential accommodation from Rajya Sabha Pool and which applications are to be put up before the Chairman of the House Committee which will allot accommodation subject to availability, keeping in view the guidelines as under:

	Category of M.P.	Entitlement of Bungalows / Flats
"1.	(i) Former Union Cabinet Minister and Former Speaker of Lok Sabha / Former Governor of a State / Former Chief Minister of a State.	Type VIII

2.	(i) Former Union Cabinet Minister / Former Governor of State / Former Chief Minister of State / Former Speaker of Lok Sabha	Type VII
	(ii) Members who have completed – three full* terms in the Lok Sabha / Rajya Sabha.	
3.	(i) Former Ministers of State in the -	Type VI Union Cabinet bungalows / MS flats / twin flats.
	(ii) Former Deputy Chairman, Rajya Sabha / Former Deputy Speaker, Lok Sabha.	
	(iii) Former Cabinet Ministers / Speakers in States	
	(iv) Members who have completed one full* term in Lok Sabha / Rajya Sabha.	
	(v) Nominated Members.	
	(vi) Floor leaders of national parties in Rajya Sabha recognized by the Election Commission.	
4.	First term Members of Parliament.	Type V single flats / bungalows.

* One full term in Lok Sabha means the period from the date of constitution of Lok Sabha to the date of its dissolution. However, one full term in Rajya Sabha means 6 years.”

16. It was contended by the senior counsel for the petitioners that each of the petitioners is a former Union Cabinet Minister besides now being a

Member of the Rajya Sabha and is thus entitled to Type-VIII and not Type-VII accommodation under the aforesaid guidelines.

17. Finding some ambiguity in Categories Nos.1 and 2 of the aforesaid guidelines, it was enquired from the senior counsel whether the petitioner would fall under Category 1 or Category 2.

18. The senior counsel for the petitioners of course denied that there was any ambiguity and reiterated that the petitioners are entitled to Type-VIII accommodation.

19. On enquiry, it was informed that the respondent No.4 RSS in its counter affidavit has supported the petitioner. In this view, the senior counsel for the respondent No.4 RSS was heard before hearing the respondents No.1 to 3 who are opposing the petition.

20. The senior counsel for the respondent No.4 RSS on enquiry informed that there are no rules or documents creating the Rajya Sabha Pool of Accommodation. On enquiry, whether any proceedings had been taken on the breach of privilege notice given by the petitioners, it was informed that the said notices were under consideration. It was further enquired whether

the Rajya Sabha Pool had surrendered any other accommodation to the General Pool against vesting of the subject houses. The answer was in the negative.

21. The stand of the respondent No.4 RSS as to the entitlement of type of accommodation to which the petitioners are entitled to, Type-VIII or Type-VII, was enquired. The senior counsel for the respondent No.4 RSS on instructions stated that eligibility of both the petitioners is of Type-VII accommodation. To avoid any ambiguity, the statement to this effect was recorded in the order dated 2nd July, 2015 *supra* while reserving the judgment in the matters.

22. Once according to the respondent No.4 RSS itself, from which the petitioners claim allotment, the petitioners are not entitled to the Type-VIII accommodation which they occupy and their entitlement was / is to the Type-VII accommodation which has now been offered to them, it was enquired from the senior counsel for the petitioners what remained in the challenge.

23. The senior counsel for the petitioners of course contended that the stand of the RSS was incorrect and in any case, the petitioners having been allotted the accommodation, the same cannot be taken away from them.

24. It was further enquired whether not the House Committee which had allotted the accommodation to the petitioners was bound by the guidelines aforesaid and not competent to allot accommodation beyond entitlement.

25. The senior counsel for the petitioners responded that the powers of the House Committee remained untrammelled by the guidelines and the House Committee could allot accommodation beyond entitlement also.

26. It was put to the senior counsel for the petitioners whether not it was improper on the part of the petitioners as Members of the Legislature and law makers to contend contrary to the law / rules which are of their own making and whether not the petitioners, by refusing to abide by such rules, are sending a wrong signal to the citizens of the country, instead of being role models to the citizenry.

27. However, the petitioners were not persuaded and insisted on retaining the Type-VIII accommodation, without being able to establish any right thereto.

28. Before the learned ASG commenced his arguments, finding that the allotment of the aforesaid Type-VIII houses to the petitioners was on 5th March, 2014 and 11th April, 2014, just prior to the General Elections, 2014 to the Lok Sabha held from 7th April, 2014 to 12th May, 2014, it was enquired from him whether in the counter affidavits filed, plea of *mala fides* in the matter of allotment of houses beyond entitlement of the petitioners, just before the change of power was on the anvil, had been taken.

29. Learned ASG replied in the negative and on further query whether the same was out of the feeling of brotherhood amongst the political parties, chose not to reply.

30. Learned ASG at the outset contended that allotment of Type-VIII houses to the petitioners, even as per the guidelines for allotment of houses published by Rajya Sabha and relying whereon the petitions have been filed, was wrong / incorrect. It was contended that only those Members of the Rajya Sabha are entitled to a Type-VIII house who in the past have been a

Union Cabinet Minister as well as either Speaker of the Lok Sabha or Governor of a State or Chief Minister of a State. On enquiry as to how a person could simultaneously be a Union Cabinet Minister and also a Speaker of Lok Sabha or a Governor of a State or a Chief Minister of a State, it was stated that they could have been so at different times. It was explained that Members of Parliament who in the past have occupied such dual offices only are entitled to the Type-VIII houses and Members of the Rajya Sabha who in the past have either been a former Union Cabinet Minister or a Governor of a State or a Chief Minister of a State or a Speaker of the Lok Sabha i.e. have in the past occupied only one of such offices, are entitled to Type-VII house.

31. It was further contended that the argument of the petitioners, of no opportunity of hearing having been given, is also misconceived inasmuch as after the notices dated 5th May, 2015 proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (PP Act) were undertaken against each of the petitioners and which they contested and in which orders of eviction had been passed. It was further argued that the writ petitions were not maintainable for this reason also and the remedy if any was to appeal to the District Judge under Section 9 of the PP Act and which remedy the petitioners had not availed. It was further contended that the DoE

remains the licensor and entitled to cancel allotments beyond the entitlement of the petitioners and this right of the DoE remains unaffected by placement of accommodation in Rajya Sabha Pool of Accommodation. It is also stated that though presently there is no Type-VII accommodation available in Rajya Sabha Pool but the petitioners are not being left homeless and have been offered Type-VII accommodation from General Pool.

32. It was immediately enquired from the senior counsel for the petitioners, why he in his opening arguments did not inform of the proceedings under the PP Act and in the face thereof how could the argument of no opportunity having been given be taken.

33. The only reply was that the same has been pleaded in the petition (though not argued) and that even before the notice dated 5th May, 2015, an opportunity of hearing has to be given.

34. Attention of the senior counsel for the petitioner in this regard was drawn to the judgment of Division Bench of this Court in *Maruti Suzuki India Ltd. Vs. India Tourism Development Corporation Ltd.* MANU/DE/1034/2013 (SLP(C) No.27110/2013 preferred whereagainst was dismissed on 13th September, 2013) where, approving an earlier judgment of

this Court in *Safari Airways Vs. The Estate Officer* AIR 1983 Delhi 347 it was held that a noticee has a right to contest the opinion formed by the Estate Officer of the noticee being in unauthorized occupation, during the course of hearing before the Estate Officer and that a noticee is not entitled to approach the High Court under Article 226 to quash the notice at the very threshold. It was further held that a notice serves no other purpose than to set the machinery of law into motion and has no serious consequences because a noticee is heard before an order of eviction is passed. It was held that the opinion, that the noticee is in unauthorized occupation, cannot be challenged but has to be contested in inquiry before Estate Officer.

35. The aforesaid dicta, in my opinion, applies squarely to the contention of the senior counsel for the petitioners. The question of giving an opportunity of hearing before cancellation of accommodation does not arise, when an opportunity to contest the cancellation is available before the Estate Officer. There cannot be two rounds of hearing—one as to the validity of the notice of cancellation, which is akin to a notice under Section 4 of the PP Act and thereafter during the proceedings under the PP Act. If it were to be held that an opportunity of hearing has to be given before cancelling the allotment also, then no person who may be in wrongful occupation of public

premises would be ejected therefrom for a long time, as grant of hearing at that stage would have its corollary of challenge to the outcome of the hearing.

36. Though the respondent No.4 RSS under whom the petitioners claim has also agreed that the petitioners are not entitled to the accommodation which is in their possession and that the same is beyond their entitlement and though the senior counsel for the petitioners also being unable to justify the entitlement thereto, fell back on the argument of the allotment, even if beyond entitlement, having once being made being not liable to be taken back but I still feel it my duty to return a finding on that aspect. The contention of the petitioners that they are entitled to Type-VIII accommodation under Clause 4.18 supra of the Handbook for Members of Rajya Sabha, is misconceived. As per the guidelines under the aforesaid Clause, only “Former Union Cabinet Minister and Former Speaker of Lok Sabha / Former Governor of a State / Former Chief Minister of a State” are entitled to a Type-VIII accommodation. Though the petitioners claim to be Former Union Cabinet Ministers but they were admittedly at no time occupying the office, either of a Speaker of Lok Sabha or of a Governor of a State or of Chief Minister of a State. The learned ASG is right in contending

that entitlement to Type-VIII accommodation is only of such a Member of Rajya Sabha who in the past has been, not only a Union Cabinet Minister but also either a Speaker of the Lok Sabha or a Governor of a State or a Former Chief Minister of a State. A Member of Rajya Sabha who in the past has held the position only as a Union Cabinet Minister, is entitled to Type-VII accommodation only. The argument of the senior counsel for the petitioners does not take into account the word “and” between the words “Former Union Cabinet Minister” and the words “Former Speaker of Lok Sabha / Former Governor of a State / Former Chief Minister of a State” in the category of Members of Parliament who are entitled to Type-VIII accommodation. Also, if it were to be held that a Member of Rajya Sabha who has been a Former Union Cabinet Minister is entitled to Type-VIII accommodation then it would also introduce an ambiguity, inasmuch as the words “Former Union Cabinet Minister” occur in the category of Members of Parliament, who are entitled to Type-VIII as well as in the category of Members of Parliament who are entitled to Type-VII accommodation and there is no guideline as to which Former Union Cabinet Minister is entitled to Type-VIII and which to Type-VII accommodation.

37. That brings me to the argument, of the DoE having once placed a General Pool Accommodation in the Rajya Sabha Pool of Accommodation, being not entitled to take back the accommodation before the period for which it was so transferred to the Rajya Sabha Pool of Accommodation and being not entitled to cancel the allotment made by the respondent No.4 RSS. As informed by the senior counsel for the respondent No.4 RSS, there are no rules or documents creating Rajya Sabha Pool of Accommodation. The senior counsel for the petitioners also was unable to show that the accommodation in the Rajya Sabha Pool of Accommodation was administered any differently than from the accommodation in the General Pool of Accommodation. In this view of the matter, merely because of the DoE having placed the subject houses in the Rajya Sabha Pool of Accommodation for onward allotment by the respondent No.4 RSS, cannot be said to be taking away the rights of the DoE, which is otherwise vested with the administration of Government Houses of taking requisite action with respect to the said two houses.

38. The petitioners have also not been able to disclose any rights higher than that of, as licensee, in the said accommodation. The DoE, as licensor of the accommodation thus remained fully entitled to terminate the said license.

A Division Bench of this Court in *M/s. Gesture Hotels & Food Pvt. Ltd. Vs. New Delhi Municipal Council* AIR 2014 Del 143, on an interpretation of Section 64 of the Easements Act has held that the remedy against revocation, even if wrongful, of a license is at best for damages and a licensee, after termination of the license, can neither retain accommodation nor seek to be put back into possession thereof.

39. I may however hurry to add that in the present case, I am unable to find the action of the DoE to be wrongful. It has, as aforesaid, stood established that the petitioners in their capacity, as Former Union Ministers and now Members of Rajya Sabha, are entitled to a Type-VII accommodation and not to Type-VIII accommodation. Notwithstanding the same, the petitioners, just when the General Elections, 2014 to the Lok Sabha were being held, got allotted to themselves accommodations which were beyond their entitlement. Though in the absence of any plea by the respondents of *mala fides* in the said allotment, no finding in that regard is to be returned but the petitioners having themselves given political overtones to the matter, I am constrained to observe that the allotment of prime houses at that stage, when the possibility of the Political Party of which the petitioners are members ceasing to be the Ruling Party, was on the anvil, is highly

suspect. Even if the rule / principle, of the Government not taking any major decisions after the elections have been announced, were to be not applicable, in the spirit thereof, rights in houses ought not to have been created in favour of the petitioners at that stage. Even if the petitioners felt that they were entitled to the said houses, they should have waited for the new Government to come in power to stake their claim. The inference is that the petitioners, knowing that in the event of their Political Party not coming in power, they would not be able to stake their claim to the said houses, chose to get the houses wrongfully allotted to themselves from the DoE which according to the petitioners themselves being under the control of MUD, acts at the behest of the MUD. The petitioners, in my view, for this reason alone, are not entitled to invoke the discretionary jurisdiction of this Court under Article 226 of the Constitution of India.

40. I am also sad to note that the petitioners, merely for the sake of retaining a house to which they are not entitled, have attempted to give political overtones to the matter and have insisted on the said argument.

41. With respect to the other contentions of the petitioners, in my view, no action of the Government which has its foundation in law, can be said to be

vindictive. Even though the petitioners have made only vague allegations and have failed to give particulars of any other person in unauthorized occupation against whom no action has been taken but I may add that it has been repeatedly held that Article 14 of the Constitution does not permit negative equality. The Supreme Court in ***S.D. Bandi*** supra has observed that the allotment of Government Accommodation is a privilege given *inter alia* to the Members of Parliament and the matter of unauthorized retention should be intimated to the Speaker / Chairman of the House and action should be intimated by the House Committee for the breach of the privileges which a Member enjoys and the appropriate Committee should recommend to the Speaker / Chairman for taking appropriate action within a time bound period. The Supreme Court in the said judgment also reminded the Representatives of People who unauthorizedly continue to occupy residential accommodation, that their overstaying in the premises directly infringes the right of another.

42. I am also sad to notice the contention of the petitioners, of being not bound by Clause 4.18 supra of the Handbook for Members of Rajya Sabha, on which they themselves placed reliance. Citizens choose a Member of Parliament to represent themselves in the making of laws and for keeping a

watch over the governmental affairs and for ensuring that the Government is run in accordance with the laws, rules and procedures framed. It does not behove such Representatives of People to say that though the others are bound by the laws, rules and regulations framed by them but they themselves are not. No power of the House Committee of the Rajya Sabha to, in the matter of allotment of houses, act otherwise than in accordance with the guidelines, has been shown. The Supreme Court in *P.V. Narsimha Rao Vs. State* (1998) 4 SCC 626 noticed that the form of oath or affirmation which is required to be made by a Member of Parliament also binds the member to bear true faith and allegiance to the Constitution of India as by law established. The petitioners, are reminded of the same and ought not to assert claims beyond their entitlement under the Rules.

43. Thus, looked at from whatever angle, there is no merit in the petitions, which are dismissed. The petitioners are also burdened with costs of Rs.25,000/- each payable to the DoE within three months of today.

RAJIV SAHAI ENDLAW, J.

JULY 30, 2015

‘gsr/bs’