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

+ **W.P.(C) 1367/2013**

UNION OF INDIA

..... Petitioner

Through : Dr. Ashwani Bhardwaj, Adv.

versus

RAJ KUMAR AND ANR

..... Respondents

Through :Mr. Vikas Agarwal, Adv. for
respondent no. 1 with respondent no. 1
in person.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **26.02.2016**

By this writ petition under Article 226 of the Constitution of India, petitioner has challenged the order dated 26th March, 2012 passed by the learned District Judge & Additional Sessions Judge, Delhi. First of all, petitioner has not approached this Court promptly. Writ petition has been filed after about 11 months. No reasonable explanation has been offered to explain this delay of 11 months. In my view, writ petition is barred by delay and laches.

Even otherwise, on merits also, petition is devoid of any merits to challenge the impugned order. Respondent no. 1 was occupying Type-V government accommodation, which was allotted to him. It is not in dispute

that petitioner was entitled to Type-VB accommodation as per the pay grade, which he was getting at the time of allotment. Due to non-availability of suitable Type-VB accommodation, petitioner was allotted Type-V accommodation though he was entitled to Type V-B accommodation. It is not the case that in Delhi Type-VB accommodation is not available. As per the counsel for petitioner, Type-VB accommodation is not available to the defence personnels. However, no such stipulation is there in the Rule 317-B Allotment of Government Residences, reliance whereupon has been laid by the counsel for the petitioner during the course of hearing. Petitioner was occupying Type-V accommodation at the time when he proceeded for study leave. This accommodation was below his entitlement and in terms of Rule (b) of policy of Government of India bearing no. 42837/Q3(B-1)/5247/D(Q&C) dated 11th December, 2001 relating to retention of defence civilian accommodation by officers on study leave in or outside India, and petitioner could have retained the same. Heavy reliance has been placed by the counsel for petitioner on explanation of the Rule 2 of 317-B Allotment of Government Residences. However, I find that explanation (e) is not applicable in the present case. Explanation (e) of the said Rule reads as under:-

“(e) Where Type–V and Type-VI accommodation has not been classified as Type V-A and Type V-B and Type VI-A and Type VI-B respectively, all the officers eligible for Type –V shall be grouped together and similarly those eligible for Type-VI shall also be grouped together.”

It is not the case that Type-V accommodation has not been classified as Type-VA and Type-VB in Delhi. Accordingly, I do not find any jurisdictional error in the impugned order whereby it has been held that notice under Section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, issued by the petitioner, was bad in law. Writ petition is dismissed.

A.K. PATHAK, J.

FEBRUARY 26, 2016

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