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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 178 OF 2017

Shri Vijay Nana Sawant

...Petitioner

Vs.

Commissioner of Police for
Greater Mumbai and Ors.

...Respondents

Mr. Aditya Pratap, Advocate for the Petitioner

Mr. A.L. Patki, Addl. G.P for the State Respondent Nos. 1 & 2

Mr. R.S. Khadapkar, Advocate for Respondent No.3

CORAM : SMT. V.K. TAHILRAMANI, &

M.S. KARNIK, JJ.

DATED : 30TH MARCH, 2017

ORAL JUDGMENT (PER SMT. V.K. TAHILRAMANI, J.)

1. Rule. Rule is made returnable forthwith. By consent matter is taken up for final hearing.

2 Heard learned Counsel for the Petitioner, learned A.G.P for Respondent Nos. 1 and 2 and the learned Counsel for Respondent No.3.

3. The Petitioner is working as Police Head Constable with the Commissioner of Police, Greater Mumbai. The case of the Petitioner is

that he had applied for police residential quarter in A/15, Shivshankar C.H.S. Ltd., Mulund (E), Mumbai. The said residential quarter was allotted to Respondent No.3 by order dated 1st July, 2015. According to the Petitioner, allotment of the quarter to Respondent No.3 was illegal, hence, he preferred O.A. No.774 of 2015 before the Maharashtra Administrative Tribunal, Mumbai. The said O.A came to be dismissed by order dated 15th June, 2016. Hence, this Petition.

4. The learned Counsel for the Petitioner submitted that as per rules, these quarters are meant to be allotted to the Police personnel from the rank of Constable to that of the Deputy Commissioner and above. In support thereof, he relied on Rule 3 framed by Respondent No.1 ie., The Commissioner of Police, Greater Mumbai for allotment of quarters at Mumbai. He submitted that nowhere it is mentioned that Government quarters under the control of the Respondent No.1 can be allotted to ministerial staff working in the Police Department. He pointed out that the Respondent No.3 is working as Stenographer and she is not a police personnel. Learned Counsel for the Petitioner also pointed out the allotment letter dated 1st July, 2015 wherein it is mentioned that Respondent No.3 is a Mantralaya employee.

5. The Petitioner had given a representation on 15th January, 2015 for allotment of quarter A/15 or A/29, Shivshankar C.H.S. Ltd., Mulund (E) Mumbai. The Petitioner had earlier submitted two representations dated 11th March, 2014 and 10th October, 2014 for allotment of police residential quarter. By order dated 22nd September, 2014 the Petitioner was allotted a quarter but he did not accept the same. Again by order dated 31st March, 2015 the Petitioner was admittedly allotted residential quarter No.C-406, Himgiri Building, Mulund Police Quarters, Mulund (W). However, the said quarter was not occupied by the Petitioner and the Petitioner submitted a representation on 13th April, 2015 for cancellation of the allotment. Thus the Petitioner did not accept the quarters allotted to him and instead on 21st April, 2015 the Petitioner again submitted an application for allotment of flat A/15, Shivshankar C.H.S. Ltd., Mulund (E) which was vacant. However, the said quarter was allotted to Respondent No.3 who according to the Petitioner, was not entitled to the same.

6. As far as the contention of the Petitioner is concerned that Respondent No.3 belongs to ministerial staff and was not a police personnel, it is seen that it is an admitted fact that she is working as

Stenographer in the office of the Deputy Commissioner of Police Head Quarters-2. Thus there is no doubt that Respondent No.3 belong to the establishment of Respondent No.1 ie., Commissioner of Police, Mumbai. Rule 6 (viii) states as under:

“6. Criteria for allotment of Government quarters:

(viii) Allotment of service quarters as a special case: On medical grounds or under extraordinary conditions, 10 percent of the service quarters shall be allotted by the Committee with the approval of Hon'ble Commissioner of Police, Greater Mumbai”.

7. Respondent No.3 has been allotted quarter on medical ground, Thus under Rule 6(viii) of the Rules dated 1st July, 2015, the Respondent No.1 Commissioner of Police can allot Police quarters on medical or humanitarian ground as a special case, to the staff working in his office, who may not be Police Personnel.

8. We would also like to point out that the Petitioner is a Police Hawaldar, hence he is eligible to quarters which are of 351 to 450 sq. ft. in size. The quarters which are being sought by the Petitioner but have

been allotted to Respondent No.3 is about 300 sq. ft. in size. Rule 6 (vii) states that Police officers/policemen must demand only those quarters to which they are entitled. Thus it is seen that the Petitioner was not entitled to the said quarter and as per Rule 3 of Rules dated 2nd February, 2015 (called Allotment Rules) the Petitioner is entitled to a quarter having area of 351 to 450 sq. ft. As per Rule 6(vii), the request for a quarter smaller in area than the entitlement cannot be considered. Thus the Police Hawaldar would not be entitled to be allotted A/15 which is 300 sq. ft. and only Police Constable and Police Naik are eligible to get this quarter. The Petitioner being a Police Havaladar was not entitled to the said quarter.

9. Admittedly the Petitioner owns a house in Mulund (E) the carpet area of which is 300 sq. ft. He was allotted quarters on two occasions ie., by order dated 22nd September, 2014 and 31st March, 2015. However, he did not accept the same and he is insisting for quarter A/15 to which he is not entitled. As stated earlier quarter A/15 could only be allotted to Police Naik or Police Constable and the Petitioner is of the rank of Police Havaladar, hence, he is not entitled to the said quarter. The Petitioner cannot claim / insist on allotment of a particular

quarter. He has no legal claim to be allotted quarter A/15. The Tribunal has considered all these aspects and in our opinion, rightly dismissed the O.A. We see no reason to interfere in the said order, hence Rule is discharged. No order as to costs.

(M.S. KARNIK, J.)

(SMT. V.K. TAHILRAMANI, J.)