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

+ **W.P.(C) 4027/2017 & CM No.17724/2017**

ANIL KUMAR CHAUHAN

..... Petitioner

Through: Mr. N. Prabhakar, Ms. Amrita
Chatterjee and Mr. Dhruv Sharma,
Advs.

versus

ESTATE OFFICER AND ASST

DIRECTOR OF ESTATES (LITIGATION).

..... Respondent

Through: Mr. Anurag Ahluwalia, CGSC with
Mr. Harvesh Kumar, Asstt. Director
(Litigation) and Mr. Umesh Kumar
Nishant, ASO.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

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03.08.2017

1. The petitioner has challenged the impugned judgment dated 10th April, 2017 whereby his appeal against the order dated 11th January, 2016 has been dismissed.
2. The petitioner is the allottee of Quarter No.1038, Sector -7, Pushp Vihar, M.B. Road, New Delhi. He is presently working with BSF and is posted at Silchar in Assam.
3. The respondent inspected the aforesaid quarter on 30th June, 2014 and thereafter, issued a show cause notice dated 10th July, 2014 to the petitioner. The petitioner submitted the replies dated 14th October, 2014 and 21st October, 2014. On 06th April, 2015, the Asstt. Director of Estates passed a cancellation order against the petitioner. The petitioner filed an appeal which was dismissed by the Director of Estates-II on 17th July, 2015. The petitioner preferred an appeal before the District Judge on 23rd January, 2016 which was dismissed on 10th April, 2017.

4. Learned counsel for the petitioner submits that the petitioner was not afforded sufficient opportunity to lead the evidence. Learned counsel for the petitioner further submits that no reasons have been given in the impugned eviction order with respect to the documents filed by the petitioner.
5. Learned Standing Counsel for the respondent submits that the documents were furnished by the petitioner after the cancellation order and, therefore, the cancellation does not contain any reasons in respect thereof.
6. Learned counsel for the petitioner submits that the petitioner be granted one opportunity to lead the evidence.
7. This Court is of the view that it would be in the interest of justice to afford one opportunity to the petitioner to lead the entire evidence.
8. In the peculiar facts and circumstances of this case, the cancellation order dated 06th April, 2015 and eviction order dated 11th January, 2016 are set aside and the petitioner is granted one opportunity to lead evidence before the Estate Officer.
9. The petitioner shall appear before the Estate Officer on 22nd August, 2017 at 11:00 am. The petitioner shall produce all the witnesses which he proposes to examine along with their affidavits by way of evidence and the relevant documents before the Estate Officer whereupon the Estate Officer shall proceed to record evidence. After conclusion of the petitioner's evidence, the respondent shall be afforded an opportunity to lead evidence in rebuttal and the competent authority shall thereafter proceed to expeditiously hear and pass a fresh order.
10. Learned counsel for the petitioner submits on instructions that the petitioner shall not seek any adjournment on the date fixed by this Court on any ground whatsoever.

11. Learned counsel for the petitioner submits that the petitioner is working with BSF and he shall apply for leave to appear before the Estate Officer. Considering that only one opportunity is being granted to the petitioner and no adjournment shall be granted on the said date, BSF shall grant leave to the petitioner to attend this matter.
12. The writ petition is disposed of in the above terms.
13. It is clarified that this order has been passed in the peculiar facts and circumstances of this case and shall not be treated as a precedent.
14. Copy of this order be given *dasti* to learned counsels for the parties under signature of Court Master.
15. Learned Standing Counsel for Central Government shall communicate this order to the concerned authority in BSF.

J.R. MIDHA, J.

AUGUST 03, 2017
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