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

+ **W.P.(C) 7007/2017 & CM No.29096/2017**

SHASHI BALA

..... Petitioner

Through: Mr Avadh Kaushik and Ms Deepa
Sharma, Advocates.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr Sandeep Mahapatra, Advocate for
R-1 to 3.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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16.08.2017

1. Issue notice. Mr Mahapatra, learned counsel for the respondents accepts notice. With the consent of the parties, the petition is finally heard.
2. The petitioner has filed the present petition, *inter alia*, praying as under:-

- “(i) A Writ of Certiorari or any other writ, order or direction calling for the records of the case and peruse the same.
- (ii) A Writ of Certiorari or Mandamus or any other writ, order or direction thereby quashing and setting aside the order dated 19.01.2017 (ANNEXURE-P-5) passed by respondent No. 2 whereby petitioner's Government allotted accommodation bearing Quarter No. 324, Block-

18, Lodhi Colony, New Delhi-110003 has been cancelled and she has been held ineligible for allotment of General Pool accommodation for rest of her service period and she has been asked to vacate the said premises and handover possession thereof on the ground of not residing and subletting;

- (iii) A Writ of Mandamus or any other writ, order or direction thereby directing the respondent No. 2 to restore petitioner's possession in her Government allotted accommodation bearing Quarter No. 324, Block-18, Lodhi Colony, New Delhi-110003;
- (iv) A Writ of Certiorari or Mandamus or any other writ, order or direction thereby quashing and setting aside the communication dated; 18.04.2017(ANNEXURE-P-8) communicating the petitioner about rejection of her appeal filed against the order dated 19.01.2017; and allow the petitioner's appeal (ANNEXURE-P-7);
- (v) A Writ of Certiorari or Mandamus or any other writ, order or direction thereby quashing and setting aside the demand letter dated 24.07.2017 (ANNEXURE-P-10) and deleting the demand of Rs. 8,58,876/- raised against the petitioner on account of damage charges for alleged overstaying in the premises petitioner's appeal (ANNEXURE-P-7).”

3. The petitioner was allotted residential accommodation - quarter no.324, Block-18, Lodhi Road, New Delhi-110003 on account of her employment with the respondents. Apparently, the said accommodation was inspected on 02.08.2016 and it appears that the inspecting team found the quarter to be

completely/partially sub-let to some unauthorised persons. At the time of the inspection, the petitioner was not present at the flat.

4. Thereafter, the petitioner was issued a Show Cause Notice dated 07.11.2016 calling upon the petitioner to show cause as to why (a) the allotment of the above mentioned residential flat not be cancelled; (b) the petitioner should not be declared ineligible for allotment of government residential accommodation for the remaining period of her service; (c) damages should not be charged from the date of inspection; and (d) the petitioner should not be debarred from sharing the government residence for a specified period in future as may be decided.

5. The petitioner responded to the show cause notice disputing the allegation that she is not in occupation of the premises in question. The petitioner asserted that she resides in the flat in question and also provided various documents to establish the same. These included electricity bill, water bill, gas bill, aadhar card, CGHS Card, pass book, voter ID and other supporting documents indicating that the flat in question was also shown as the residence of her daughter, Priyanka Singh.

6. The petitioner's representation was not accepted and the Assistant Director (Estates) passed an order dated 19.01.2017, which is impugned in the present petition, directing the petitioner to handover vacant possession of the quarter in question. The said impugned order also indicated that the petitioner would be charged damages from the date of inspection till the date of handing over of full and vacant possession of the quarter to the CPWD.

7. Aggrieved by the aforesaid order, the petitioner preferred an appeal to the Directorate of Estates. The petitioner also submitted a representation, *inter alia*, stating that she had no clue as to on what basis, the officials conducting investigation had concluded that she was not residing at the accommodation in question. The petitioner has also placed a communication on record whereby she had requested for copies of the relevant documents on the basis of which the respondents had concluded that the petitioner had sub-let the quarter in question.

8. The petitioner's appeal was rejected and this was communicated to the petitioner by a letter dated 18.04.2017. Thereafter, on 24.07.2017, the respondents also raised a demand for damages aggregating ₹8,58,876/-.

9. Neither the impugned order passed by the Assistant Director (Estates) nor the communication indicating that the petitioner's appeal had been rejected throws any light as to the material on which such decision had been taken. Although, it is stated that an inspection had been carried out but the inspection report has not been shared with the petitioner. The relevant details of the material supporting the allegations of sub-letting are also not discernable from any of the orders. Even the show cause notice does not indicate the material on which the respondents have alleged that the petitioner had sub-let the premises in question. Thus, the petitioner's contention that principles of natural justice have been violated, is merited.

10. Mr Mahapatra submitted that on inspection, certain additional construction was found at the terrace of the flat and the same was found to be occupied by unauthorized persons. Clearly, this allegation is neither

specified in the show cause notice nor finds any mention in the impugned order dated 19.01.2017.

11. Mr Mahapatra was pointedly asked as to whether the inspection report had been shared with the petitioner and he, on instruction, fairly admitted that the same had not been provided to the petitioner.

12. In view of the above, this Court is of the view that the principles of natural justice have been violated and the petitioner has not been provided adequate opportunity to meet the case set up against her.

13. In view of the aforesaid, the petition is allowed. The order dated 19.01.2017; the communication dated 18.04.2017; and the demand letter dated 24.07.2017 are set aside. The matter is remanded to the Assistant Director (Estates) to consider afresh and pass a reasoned order after hearing the petitioner and after ensuring that the petitioner has been provided all relevant material relied on by the respondents.

14. It is clarified that this Court has not expressed any opinion on the merits of the allegation as to whether the petitioner had sub-let the accomodation provided to her. It would be open to the Assistant Director (Estates) to take an informed decision after hearing the petitioner.

15. This Court is also informed that the petitioner had vacated the said premises on 05.05.2017. Since the orders impugned in this petition have been set aside, the petitioner is entitled to be re-inducted in the said quarter, however, this Court is refraining from issuing any such direction. It would be apposite to await the outcome of the decision of the respondents. In the

event, the allegations levelled against the petitioner are not sustained, the respondents would also take steps for re-inducting the petitioner in the same accommodation or allot any other equivalent accommodation.

16. Order *dasti*.

AUGUST 16, 2017
MK

VIBHU BAKHRU, J