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

+ **W.P.(C) 10282/2017 & C.M. Nos.41926-41928/2017**

Date of Decision: 20th November, 2017

SMT. SUCHITRA GOSWAMI PETITIONER
Through Mr.Sonal Sinha, Adv.

versus

UNION OF INDIA RESPONDENT
Through Mr.Rakesh Kumar, Adv. with
Ms.Saakshi Agrawal, Adv. for
R-1/UOI.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

HIMA KOHLI, J (ORAL)

1. The present petition has been filed by the petitioner, assailing the order dated 9th October, 2017 passed by Central Administrative Tribunal, Principal Bench, New Delhi. Before the Tribunal, the petitioner had prayed for quashing of the order dated 16th December, 2015 passed by the respondent/Directorate of Estates, Ministry of Urban Development, whereby, on re-examining her case in terms of an order dated 5th November, 2015, passed by the High Court in an earlier petition filed by her

(W.P.(C) No.10182/2015), her request for regularizing the Government accommodation occupied by her at Kidwai Nagar, at the time of her superannuation on 31st July, 2011, on the strength of her being appointed on a contractual basis with NITI Aayog w.e.f. 12th June, 2014, stood rejected.

2. Learned counsel for the petitioner submits that the petitioner belongs to the Central Secretariat Service and had retired from the same Department on the post of a Joint Secretary. While working in the said Department, she had been allotted a Government accommodation bearing number D-II/233, Kidwai Nagar (West), New Delhi. The extant rules permitted the petitioner to retain the subject accommodation after her superannuation, for a maximum period of eight months, on payment of normal/enhanced licence fee, which period had expired on 31st March, 2012. However, the petitioner failed to vacate the said accommodation. As a result, the respondent initiated eviction proceeding against her under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as “PP Act”) and subsequently, the Estate

Officer passed an eviction order dated 10th October, 2013, against the petitioner.

3. Aggrieved by the said order, the petitioner had soon thereafter, filed an appeal before the District Judge, Patiala House, New Delhi, and the same is stated to be pending adjudication. Though no interim order is operating in favour of the petitioner in the said proceedings, she has been continuing to occupy the government accommodation after 10.10.2013, till date. After a gap of two years and three months, reckoned from 31st March, 2012, on which date the maximum period available to the petitioner for retaining the Government accommodation would have expired, she secured re-employment as a Research Associate in NITI Aayog on 11.06.2014, which contract was later on extended up to 30th November, 2015. As per para 3(iii) of the terms of engagement of the petitioner, issued by the NITI Aayog on 11th June, 2014, her assignment as a Research Associate did not carry any dearness allowance, residential telephone, transport facility, residential accommodation, house rent allowance etc.

4. It is matter of record that the petitioner joined the services of NITI Aayog on 12th June, 2014. There can, thus, be no doubt about the fact that from 12th June, 2014 onwards, the petitioner was well aware of the fact that she had not been granted any residential accommodation by NITI Aayog. Despite that, she continued to occupy the Government accommodation, without any legal right. After a gap of one year reckoned from 11th June, 2014, the date on which the petitioner was issued an offer letter for appointment by NITI Aayog, she submitted a representation to the Ministry of Urban Development, seeking regularization of the subject accommodation under the pool, on the claim that similarly placed persons had been granted such a relief by the Directorate of Estates.

5. Admittedly, vide order dated 15th July, 2015, the representation made by the petitioner to consider her case for regularization of the subject Government accommodation, was turned down and she was called upon to deposit the outstanding sum of Rs.13,39,999/-, on account of unauthorizedly occupying the subject accommodation, apart from vacating the same

immediately. The petitioner neither vacated the subject accommodation nor paid the entire amount as demanded by the Directorate of Estates. Instead, she filed a writ petition in this Court, registered as W.P.(C) No.10182/2015. In the said petition, the petitioner prayed for regularization of the residential accommodation under her occupation under the Planning pool, on the plea that the order dated 15th July, 2015 issued by the Directorate of Estates, had not dealt with the contentions raised by her in her representation. The said order was quashed and set aside vide order dated 30th October, 2015 passed by the Court in the captioned petition with directions issued to the respondent to decide the petitioner's representation afresh.

6. Pursuant to the aforesaid order, after re-examining the case of the petitioner, the respondent issued the order dated 16th December, 2015, holding *inter alia* that her case for regularization was not covered under the Rules. Aggrieved by the said order, the petitioner filed a second petition in this Court, registered as W.P.(C) No.12263/2015 wherein while issuing notice on 14th January, 2016, the Court had initially passed an interim order,

directing the respondent to maintain status quo with regard to the subject accommodation. The said petition was finally disposed of vide order dated 6th January, 2017 with liberty granted to the petitioner to withdraw the same and approach the Central Administrative Tribunal, Principal Bench for appropriate relief. Simultaneously, the interim order passed in favour of the petitioner on 14th January, 2016, was vacated.

7. Thereafter, the petitioner filed an O.A before the Central Administrative Tribunal, registered as O.A No.393/2017. The said O.A. has been dismissed by the Tribunal as not maintainable on the ground that the relief prayed for in the petition, has no nexus with the service conditions of the petitioner, within the meaning of Section 14 of the Administrative Tribunal Act, 1985. In other words, the petitioner ought to have pursued her remedy against the rejection order dated 16.12.2015, elsewhere.

8. As noted above, the Eviction Order dated 10th October, 2013 passed by the Estate Officer, has already been assailed by the petitioner by filing an appeal and the same is pending adjudication

before the appellate authority i.e. District Judge, Patiala House, New Delhi. We are informed that the said appeal is listed for arguments today itself.

9. Counsel for the petitioner states that it was the duty of NITI Aayog to have recommended allotment of an accommodation in favour of the petitioner, particularly when five flats had been allotted to the Planning Commission (now, NITI Aayog) for its employees and as per the averment made by the petitioner in WP (C) No.12263/2015, they were lying vacant.

10. It is noteworthy that despite the said allegations levelled by the petitioner against NITI Aayog, claiming alleged failure on its part to recommend her name to the Directorate of Estates, for allotment of an accommodation, which was purportedly lying vacant in the Planning Commission pool, the petitioner elected not to implead Planning Commission as a party in either of the two writ petitions filed by her before this Court. Even when the second petition filed by the petitioner was disposed of with liberty granted to her to approach the Central Administrative Tribunal

and pursuant thereto, she had filed OA No.393/2017, for reasons best known to her, she still did not elect to implead the Planning Commission as a co-respondent. In all the three proceedings, the petitioner impleaded only respondent/Directorate of Estate, Ministry of Urban Development, Union of India as a respondent.

11. It is also relevant to note that the petitioner's contract with the Planning Commission had expired as long back as in November, 2015 whereafter, there was no justification whatsoever for the petitioner to have continued occupying the Government accommodation. But she did. Even as of now, she is continuing to do so. The aforesaid conduct of the petitioner is a gross abuse of the process of the Court. Under the garb of approaching one court after another in succession, the petitioner has been willy-nilly hanging on to the subject premises, without any relief granted to her by any forum including the District Judge who is ceased of the appeal preferred by her against the eviction order passed by the Estate Officer, as long back as on 10th October, 2013, except for the period from 14th January, 2016 to 6th January, 2017, when a status quo order was operating in her favour.

12. Learned counsel for the respondent states that as on date, the amount liable to be paid by the petitioner towards market rent has mounted to a sum of Rs.20,00,000/- (approx). It is the submission of the learned counsel for the petitioner that a sum of Rs.6,00,000/-(approx) has been deposited by the petitioner with the respondent, whereafter no demand has been raised on her and therefore, she cannot be blamed for not depositing any further amounts towards market rent.

13. We are compelled to comment adversely on the blatant conduct of the petitioner who has left no stone unturned to retain the Government accommodation which she had no right to occupy after superannuating on 31st July, 2011. At best, the petitioner could have retained the subject premises for a period of eight months reckoned from 31st July, 2011, that had expired as long back as on 31st March, 2012. By now, over five and a half years have expired but the petitioner has brazenly continued to occupy the subject accommodation and that too when as on date, she is admittedly not holding any Government assignment. Further, she has not deposited the market rent. It is least expected of the

petitioner, who had retired at a responsible post of a Joint Secretary in the Government to have resorted to such tactics to unauthorisedly occupy government accommodation. The said conduct needs to be condemned in the strongest terms.

14. In the above facts and circumstances, we see no reason to interfere in the impugned order. Even otherwise, having examined the case of the petitioner on merits, we do not find any reason to grant any relief to her on the strength of a specious plea that there was pool accommodation available with NITI Aayog which the respondent/Directorate of Estates ought to have allotted to her, when no such recommendation was ever made in her favour by the NITI Aayog. Even otherwise, it is an undisputed position that NITI Aayog did not change the terms and conditions of appointment of the petitioner which remained the same, as set down in the letter dated 11th June, 2014, issued to her and her reemployment came to an end on 30.11.2015.

15. The present petition is accordingly dismissed *in limine*, as devoid of merits with costs of Rs.50,000/- imposed on the

petitioner 50% of the said costs shall be deposited by the petitioner with the Delhi Legal Services Authority and the balance amount, paid to the respondent. In case the petitioner does not pay the costs, then the same shall be recovered from her as 'Arrears of Land Revenue'.

16. The writ petition is disposed of in the above terms alongwith all pending applications.

(HIMA KOHLI)
JUDGE

(REKHA PALLI)
JUDGE

NOVEMBER 20, 2017/aa