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**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPS No. 3428 of 2011**

Sarvesh Kumar Mishra S/o Shri Ramchandra Mishra, Aged about 44 years, Flat No. 62, Block No. 4, Third Floor, Housing Board Colony, Avanti Vihar, Near Akash Ganga Nagar, P.O. Shankar Ngar, Raipur, District Raipur Chhattisgarh

**---- Petitioner****Versus**

1. State of Chhattisgarh, Through the Secretary, Health & Family Welfare Department, D.K.S. Bhawan, Mantralaya, Raipur, District Raipur, Chhattisgarh
2. The Director, Health Services, Old Nursing Hospital, D.K.S. Compound, Raipur, Chhattisgarh
3. The Deputy Director, Health Services, Old Nursing Hospital, D.K.S. Compound, Raipur, Chhattisgarh
4. Executive Engineer, Public Work Department, New Bhopal Division, Shed No.10, Jawahar Chowk, Bhopal (M.P.)

**----Respondents**

|                |   |                                     |
|----------------|---|-------------------------------------|
| For Petitioner | : | Mr. Ratnesh Kumar Agrawal, Advocate |
| For State      | : | Mr. Syed Majid Ali, Dy. G.A.        |

**Hon'ble Shri Justice P. Sam Koshy****Order on Board****28/06/2018**

1. The challenge in the present writ petition is to the penal rent, which has been charged by the respondent-State of Madhya Pradesh from the petitioner for the unauthorized occupation of the government quarter No. G-39/9 located at South T.T. Nagar, Bhopal.
2. The facts of the case is that the petitioner who is working as a Stenographer in the erstwhile of State of Madhya Pradesh, on the creation of the State of Chhattisgarh stood allocated to the State of Chhattisgarh on 01.11.2000. Though he had been allotted to the State of Chhattisgarh, the petitioner did not vacate his government accommodation that he was occupying which was duly allotted to

him i.e. G-39/9 at South T.T. Nagar, Bhopal, thereafter the petitioner is said to have retained the said premises till 25.07.2005.

3. The State of Madhya Pradesh subsequently has said to have issued a demand notice claiming house rent for the said occupation of quarter from 01.11.2000 till 25.07.2005 to the tune of Rs.1,02,203/-. It is this order which is under challenge by the petitioner.
4. The counsel for the petitioner submits that the State of Madhya Pradesh could not have imposed penal rent against the petitioner as he has not been sufficiently noticed before passing of the order of recovery. He further submits that the order of recovery (Annexure P/1) is also bad in law for the reason that the State of Chhattisgarh cannot order for any recovery in respect of any claim which has been raised by the Madhya Pradesh, P.W.D., Bhopal. He further submits that the imposition of penal rent is bad, atleast the authorities should have considered charging market rent for the said quarter for the period that he has remained in occupation.
5. The counsel for the applicant submits that there is also an element of discrimination for the reason that there are others private occupants in the government accommodations available and who are being charged only the normal rent, but the petitioner is being made to pay the market rent as well as the penal rent.
6. Having heard the contentions of the counsel for the petitioner and on perusal of the record, undisputedly on the creation of the State of Chhattisgarh, the petitioner stood allocated to the State of Chhattisgarh w.e.f. 01.11.2000. The petitioner assumed his duties in the State of Chhattisgarh, however he retained his family in the State

of Madhya Pradesh for quite some time. Meanwhile the petitioner also did not vacate the quarter that he continued occupying the another in the State of Madhya Pradesh i.e. Quarter No. G-39/9 at South T.T. Nagar, Bhopal.

7. It is settled position of law that in the event of a government employee occupying a government accommodation, he is required to pay the normal rent for the said accommodation and the moment he becomes unauthorized occupant, the department would be at liberty to charge initially market rent and thereafter penal rent.
8. The perusal of the assessment order would show that the State of Madhya Pradesh has otherwise also permitted the petitioner to remain in the quarter from 01.11.2000 to 31.05.2003 and for which the State has charged only the normal rent. However, for the period beyond that the petitioner became an unauthorized occupant of the said quarter i.e. between 01.06.2003 to 25.07.2005 and he has therefore been ordered to pay the penal rent, which is twice the amount of market rent.
9. Given the aforesaid entire factual matrix of the case, this Court does not find any strong reason or ground made out by the petitioner calling for an interference with the impugned recovery notice. When the facts are undisputed, so far as the petitioner having retained the quarter in the State of Madhya Pradesh from 01.11.2000 to 25.07.2005 inspite of the petitioner being allocated to the State of Chhattisgarh, the petitioner was incumbent to pay rent for the said property only for the period during which he would be permitted to retain the quarter and not beyond that. The petitioner has not been

able to show any order in his favour whereby he has been duly permitted to retain the quarter beyond 01.06.2003, by virtue of which he could have made his claim for the normal rent for the said quarter.

10. In the absence of any official allotment of the quarter or proper sanction or approval being given in this regard, the claim of the petitioner is not sustainable and the petition thus being devoid of merit deserves to be and is accordingly rejected.
11. However, it is noted that from Annexure P/4 it clearly reflects that the petitioner has already deposited an amount of Rs.17,042/- with the State of Madhya Pradesh and therefore the respondent now would be entitled to recover only the balance of amount of Rs.85,161/- as is reflected from the order of the Executive Engineer, P.W.D. Bhopal division dated 09.11.2010 (Annexure P/4).
12. With the aforesaid observations, the present writ petition stands dismissed.

Sd/-  
**(P. Sam Koshy)**  
**Judge**

Ved