

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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**CWP No. 12388 of 2016
Date of Decision: 5.4.2018**

Balaram

.....Petitioner

v.

State of Punjab and others

.....Respondents

CORAM HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. M.S. Saini, Advocate, for the petitioner
Mr. H.S. Sitta, AAG, Punjab

RAKESH KUMAR JAIN, J.

The petitioner has challenged the order dated 27.5.2016 by which allotment of the house in question to him is cancelled and the petitioner is asked to vacate the said premises within two days.

Learned counsel for the petitioner has submitted that, vide Office order No. 789 dated 20.11.2015, the demised premises was allotted to him but possession was not delivered because it was occupied at that time. The petitioner was delivered possession on 30.5.2016 but he received a letter dated 2.6.2016 to vacate the premises on the ground that allotment in his favour made on 20.11.2015 was cancelled on 27.5.2016. Surprised with this order, the petitioner approached this Court by way of the present writ petition in which, at the time of issuance of notice, status quo was ordered to be maintained.

The respondents filed reply in which it is averred that allotment in favour of the petitioner, made on 20.11.2015, was subject to the availability of vacant possession but before the possession could have been delivered, the

allotment made to the petitioner was cancelled on 27.5.2016 in public interest.

The respondents have, however, fairly submitted that before passing the order on 27.5.2016, no show cause notice was given to the petitioner.

Learned counsel for the petitioner has thus, submitted that the respondents have violated the provisions of natural justice i.e. audi alteram partem.

I have heard learned counsel for the parties and after taking into consideration the facts and circumstances of the present case, am of the considered opinion that the impugned order dated 27.5.2016 has been passed in violation of principle of natural justice which provides that nobody should be condemned unheard.

In this case, there is no dispute that the petitioner was allotted the demised premises by Office Order No. 789 dated 20.11.2015 and was made aware that he would be delivered possession as and when the person in occupation vacate the same. The petitioner was actually put in possession by the respondent on 30.5.2016. Thereafter, the petitioner is in occupation. On 2.6.2016 the petitioner was informed by the respondents that the allotment made in his favour has been cancelled on 27.5.2016 due to some reasons and therefore, he was asked to vacate within 2 days. All that has been done by the respondents is behind the the back of the petitioner, therefore, the impugned order is patently illegal and erroneous as respondents cannot be allowed to violate the principle of natural justice which envisages an opportunity of hearing before passing the impugned order against the petitioner.

Accordingly, the present writ petition is hereby allowed. The impugned order dated 27.5.2016 is set aside. The respondents may, if so advised, issue show cause notice to the petitioner and after giving an

opportunity of hearing, pass a speaking order in accordance with law, in case they still desire to cancel the allotment made to the petitioner.

(RAKESH KUMAR JAIN)
JUDGE

5.4.2018
Ashwani

Speaking/Reasoned	Yes/No
Reportable	Yes/No