

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

% **Date of decision: 6th July, 2018**

+ **W.P.(C) 1513/2017 & CM No.6876/2017 (for stay)**

BHUPINDER SINGH MALIK **Petitioner**

Through: Mr. Kumar Rajesh Singh & Ms.
Punam Singh, Advs.

Versus

**ESTATE OFFICER, DIRECTORATE OF ESTATES,
MINISTRY OF URBAN DEVELOPMENT..... Respondent**

Through: Mr. Bhagvan Swarup Shukla &
Mr. Siraj Kumar, Advs. for UOI.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

1. This petition under Article 226 of the Constitution of India impugns the order [dated 25th January, 2017 in PPA No.07/2015 of the Court of District & Sessions Judge, South-East District, Saket Courts, New Delhi] of dismissal of appeal under Section 9 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 filed by the petitioner against the order dated 22nd May, 2015 under Section 5 of the Act of the Estate Officer of the Directorate of Estates of eviction of the petitioner from government quarter at Block-M/330, Katurba Nagar, New Delhi allotted to petitioner by virtue of his employment as driver with the Research & Analysis Wing, Government of India, consequent to the order dated 9th May, 2014 of the Directorate of Estate of cancellation of allotment in favour of the petitioner of the said quarter on account of dismissal on 9th April, 2014 of the petitioner from employment.

2. This petition came up first before this Court on 20th February, 2017 when notice thereof was issued and coercive steps for eviction of the petitioner restrained. The said interim order has continued till date. The record of the appeal under Section 9 supra has been requisitioned.

3. However, the need to set out herein the facts or any other ground which may have been urged in the paper book is not felt as the only argument urged by the counsel for the petitioner is that the petitioner has preferred an Original Application before the Central Administrative Tribunal (CAT), Delhi impugning the order of dismissal from service / employment and which petition is pending consideration.

4. The counsel for the petitioner has argued that the said petition is likely to be allowed and if, before the consideration of the said petition, the petitioner is evicted from the accommodation allotted to him by virtue of his employment, the petitioner inspite of being restored in employment / service will have to again stand in queue for allotment of government accommodation and may not get government accommodation immediately.

5. The counsel for the petitioner has sought to draw attention to the copies of the judgment of this Court annexed to the rejoinder filed to the counter affidavit of respondent, to contend that the order of dismissal of the petitioner is wrong.

6. However, the counsel for the petitioner, on enquiry whether this Court in this proceeding can go into the merits of the order of dismissal of the petitioner from employment and return findings

thereon, the counsel for the petitioner fairly states that this Court cannot.

7. I have enquired from the counsel for the petitioner, whether there is any order of interim stay by the CAT, of the order of dismissal of the petitioner.

8. The counsel for the petitioner states that he has been engaged in the proceeding before the CAT only recently and is not aware of the same.

9. The counsel for the respondent however states that there is no stay.

10. Thus the fact remains that the petitioner, since 9th April, 2014 when he ceased to be in employment, and with effect from 9th May, 2014 when the allotment in his favour was cancelled, is in unauthorized occupation of the premises and has till now continued in occupation only by virtue of adopting the legal process. It can safely be presumed that the petitioner must have filed the Original Application before the CAT also immediately after the order of dismissal. The same has not been decided as yet. The petitioner, by so taking recourse to the legal process, has already continued in unauthorized occupation of government accommodation for over four years.

11. As of today, the occupation of the petitioner is unauthorized and the petitioner, in anticipation of favourable decision by the CAT and which may also be subject matter of challenge before the higher Courts, cannot be permitted to continue in occupation.

12. No Rule permitting a dismissed government employee to continue in occupation of accommodation allotted to him by virtue of his employment, till challenge if any by him to his dismissal is cited.

13. As far as the only argument raised by the counsel for the petitioner is concerned, the same loses sight of the plight of the others who are in employment of the government and are desirous of availing of government accommodation but have been deprived thereof owing to the petitioner, who is not in employment, continuing in unauthorized occupation of the accommodation, entitlement to occupy which was only by virtue of employment and from which the petitioner has been dismissed. This Court cannot, in adopting a sympathetic attitude towards the petitioner, turn a blind eye to the others who are equally deserving of sympathy and who are not before this Court.

14. In a country of shortages, sympathy/mercy/indulgence in favour of one, is always at the cost of another.

15. Thus, no merit is found in the aforesaid contention.

16. Else, having gone through the record, no error requiring interference in exercise of jurisdiction under Articles 226 and 227 of the Constitution of India is found in the impugned judgment.

17. Resultantly, the petition is dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

JULY 06, 2018

‘gsr’..