

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 699 of 2014**

- U.S. Mishra S/o Late G.S. Mishra Aged About 57 Years Additional District Judge, Bhanupratappur, R/o Erigation Colony, Bhanupratappur, Nourth Bastar Kanker C.G.

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Home Department, Mantralaya, Mahanadi Bhawan, New Raipur, P.S. Rakhi, District Raipur C.G.
2. The Director, Estate Directorate (Home Department), Mantralaya, Mahanadi Bhawan, New Raipur C.G.
3. The Sub- Divisional Officer Public Works Department, Raipur C.G.

---- Respondents

For Petitioner : Shri Goutam Khetrapal, Advocate

For Respondents/State : Ms. Astha Shukla, PL

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****24/09/2019**

1. Heard.
2. The present petition is filed against the order dated 30.12.2013 (Annexure P-8), whereby the petitioner has been asked to deposit the penal rent from May, 2012 to December, 2013 of twenty months amounting to Rs.4,92,000/- in favour of the State.
3. It is contended on behalf of the petitioner that the petitioner was posted as Law Officer, Chhattisgarh Human Rights Commission, at Raipur. He was transferred

by order dated 16th April, 2012 to Sukma, South Bastar, Dantewada. It is further stated that the petitioner was allotted a house bearing quarter No.E-2, ESE Colony, Raipur and since it was middle of the academic session, as such the request was made by the petitioner to allow the extension to hold the said house, which was permitted by Annexure P-9 by the State so as to hold the house up till August, 2012. On 27.06.2013 (Annexure P-7) a demand was made for a penal rent from September, 2012 till May, 2013 as amount of Rs.2,21,400/- was found due. Thereafter, by the impugned letter dated 30.12.2013 (Annexure P-8) the penal rent from May, 2012 to December, 2013 of Rs.4,92,000/- has been asked for. It is further stated that the order Annexure P-8 was passed without going into the facts as would be evident that the petitioner was already permitted to hold the house up till August, 2012 and thereafter he has vacated the house, which would be evident from the information and the memo received by the PWD department, which is filed as Annexure P-6, wherein information was received to the effect that the eviction of the house was made in April to May, 2013 itself, therefore, there has been a serious contradiction as to the period with respect to the demand made.

4. Learned counsel for the petitioner would further submit that as per the Rules which is prevailing the case of the petitioner can be considered that since the children of the petitioner was studying as such extension could have been made till the next academic year of 2013. Therefore, in the light of the said background, the case of the petitioner may be considered afresh.
5. Per contra, learned State counsel opposes the arguments advanced by learned counsel for the petitioner.
6. Perusal of the documents would show that the petitioner was initially transferred

on 16th of April, 2012 from Raipur to Sukma. Admittedly, the petitioner was holding a government accommodation bearing quarter No.E-2, at ESE Colony, Raipur. The accommodation appears to have been vacated by communication Annexure P-6 and it would show that the information of vacating house was received in the office of the Executive Engineer, PWD, Raipur on 04.05.2013. It is also submitted that the permission to hold the house was allowed to the petitioner up till August, 2012 as would be evident from Annexure P-9 dated 21st of August, 2012. Therefore, prima facie it appears till August, 2012 the petitioner was allowed to keep the house in possession even after transfer.

7. By communication dated 27.06.2013 (Annexure P-7) the penal rent was calculated as due for the period of September 2012 to May, 2013 of nine months and was informed to the Secretary State. As against this the impugned notice dated 30.12.2013 (Annexure P-8) would show the demand of penal rent has been made from May, 2012 to December, 2013. The said demand of penal rent as against the period when are examined by superimposing two documents i.e. Annexure P-7 & P-8 it shows that with respect to period serious contradiction exists. As per document Annexure P-9 the petitioner was initially allowed to hold the house up till August, 2012. Therefore, primarily the demand as per Annexure P-8 from May, 2012 appears to be wrongly been made. Furthermore, the document Annexure P-6 wherein a communication was given to the Executive Engineer, it shows that the house in question was vacated by the petitioner in the month of May, 2013 thus also the period up till December, 2013 is wrongly been made. The petitioner claims that when the petitioner was transferred in the month of April, when the children were studying. He was further allowed to hold house up till August, 2012. Therefore, the averment of

the petitioner that he was allowed to hold the possession of house till May, 2013 needs further interpretation.

8. However prima facie it is found that the demand of penal rent from May 2012 to December 2013 appears to be based on wrong calculation with respect to the period of holding over the house. In the background of the aforesaid discussion, the communication dated 30.12.2013 (Annexure P-8) is hereby quashed. The petitioner shall be at liberty to make afresh representation to the State stating all the grounds, which may be considered in the proper perspective in objective manner.
9. With the aforesaid observation, the writ petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu