

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

% Date of decision: 15th February, 2019

+ LPA 108/2019, CM Nos. 7018-7020/2019

SUBHASH CHANDRA KHURANA & ORS

..... Appellants

Through: Mr. Vivek Chib, Adv. with
Ms. Pracheta Kar & Mr. Asif Ahmed,
Adv.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF
DELHI & ANR

..... Respondents

Through: Mr. Satyakam, ASC for GNCTD with
Mr. Varun Kalia, Adv. with
Dr. Kiran, Tibbia College

+ LPA 109/2019, CM Nos. 7031-7033/2019

KULJIT SINGH & ORS

..... Appellants

Through: Mr. Vivek Chib, Adv. with
Ms. Pracheta Kar & Mr. Asif Ahmed,
Adv.

versus

GOVT OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Satyakam, ASC for GNCTD with
Mr. Varun Kalia, Adv. with
Dr. Kiran, Tibbia College

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

V. KAMESWAR RAO, J. (ORAL)

CM Nos. 7019-7020/2019 in LPA 108/2019

CM Nos. 7032-7033/2019 in LPA 109/2019

Exemption allowed subject to all just exceptions.

Applications stand disposed of.

LPA 108/2019 & LPA 109/2019

1. As these two appeals have been filed against a common judgment dated December 04, 2018 whereby the learned Single Judge has decided four writ petitions, which includes two writ petitions being W.P.(C) 12377/2005 and W.P.(C) No. 6905/2014 from which these two appeals arise, the same have been heard together and are being decided by this common order.

2. The challenge in W.P.(C) No. 12377/2005 was to a notice dated July 26, 2005 issued by the respondent No.3 directing the appellants to immediately vacate the residential quarters in order that the same can be demolished. The Writ Petition (Civil) No. 6905/2014 was filed impugning the action of the respondents in demolishing the toilets / latrines used by the appellants and also impugning the proposed action of the respondents to demolish the residential premises / quarters occupied by the appellants herein.

3. Mr. Chib has made detailed submissions on the impugned order of the learned Single Judge, in both the appeals.

4. One of the submissions of Mr. Chib is by relying upon Section 5 of The Delhi Tibbia College (Take Over) Act, 1997, which inter alia stipulates that every person having on the appointed date in his possession, custody or control of any property forming part or relatable to the College shall deliver forthwith such property to the Government or to any Officer or other employee of the Government as may be authorized by the Government in this behalf. He also relied upon Rules 3, 6 and 7 of The Delhi Tibbia College (Take Over) Rules, 2006 to contend that the said Rules prescribe powers and duties of the Director and also issuance of notification regarding the details of the property of the College or relatable to the College and procedure for issuing directions to hand over the properties of the College or relatable to the College.

5. According to him, no such procedure was followed before taking impugned action against the appellants. According to him, this position under the Act and the Rules had been accepted by the learned Single Judge, and the relief was granted in favour of the petitioners in W.P.(C) No. 6797/2008, and not to the appellants herein. In this regard, he has

drawn our attention to paras 65 to 71 of the impugned order. It is his submission that the said procedure need to have been followed in the case of the appellants herein also.

6. Mr. Satyakam, who appears for the respondents, on advance notice concede to the fact that the appellants herein are also entitled to the benefit of the procedure under the Rules of 2006. In fact, he states that the respondents shall give the benefit of the procedure under the Rules of 2006 in the manner directed by the learned Single Judge that is the respondents shall take appropriate action after following the procedure as specified under the said Rules, to the appellants herein and also to the petitioners, whose writ petitions have been dismissed but have not filed appeals.

7. In view of the statement made by Mr. Satyakam, these two appeals are allowed and the writ petitions are disposed of by setting aside the impugned notice dated July 26, 2005 in W.P.(C) No. 12377/2005 and restraining the respondents from taking impugned action against the appellants in both the appeals, by leaving it open to the respondents to take appropriate action against the appellants after following the procedure as specified under the Rules of 2006. We also take on record, the submission made by Mr. Satyakam that such a

procedure shall also be followed by the respondents against similarly placed petitioners, whose writ petitions have been dismissed but have not approached this Court by way of appeals. The appeals are disposed of.

CM No. 7018/2019 (for stay) in LPA 108/2019
CM No. 7031/2019 (for stay) in LPA 109/2019

Dismissed as infructuous.

V. KAMESWAR RAO, J

CHIEF JUSTICE

FEBRUARY 15, 2019/ak