

\$~13

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 3rd September, 2019

+

W.P.(C) 4887/2019

ARINDAM GHOSH

..... Petitioner

Through: Mr. Sonal Sinha with Mr. Sajad
Sultan, Advs.

versus

THE DIRECTORATE OF ESTATES & ORS

..... Respondents

Through: Ms. Tatini Basu, Adv. for R-3 & 4.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

D.N. PATEL, CHIEF JUSTICE (*Oral*)

1. This Public Interest Litigation has been preferred with the following prayers:

“a. A writ of or in the nature of Mandamus directing the Respondent Nos.2, 3 and 4 to forthwith furnish report of allotments made by it to the Members of Rajya Sabha; extensions granted after expiry of term of office and rent collected for the period after expiry;

b. A writ of or in the nature of Mandamus directing the Respondent No. 1 to forthwith initiate proceedings including eviction proceeding against the politicians/bureaucrats continuing their stay in Governmental Accommodation after their retirement and/or resignation under the Public Premises (Eviction of Unauthorised Occupation) Act, 1971;

c. A writ of mandamus directing the Respondents to recall, rescind and/or cancel any extension granted to any ex member of Parliament/ bureaucrats beyond the period of one month as provided for in the Rules of Procedure and Conduct of Business in the Council of State (Rajya Sabha).

d. A writ of or in the nature of Certiorari directing the Respondent Nos. 1 to 4 to produce records pertaining to the details of all the politicians/bureaucrats currently occupying Government Accommodation after their retirement and/or resignation and action taken against them;

e. Rule NISI do issue and to make the Rule absolute if no cause or insufficient cause is shown by the respondents;

f. Injunction restraining the Respondent No. 4 from providing any extensions to any politician/bureaucrats who have retired and/or resigned to continue in such accommodation reserved specifically for members of parliament;

g. Appoint an officer to monitor the progress of action taken by the Respondents for eviction of the politicians/bureaucrats continuing their stay in Governmental Accommodation after their retirement/resignation and submit periodical reports to this Hon'ble Court;

h. Costs of and incidental to this Petition be paid by the respondents.

i. Appropriate writ and/or orders and/or directions be given which this Hon'ble Court deem fit as would afford complete justice to the petitioner.”

2. Having heard learned counsel for the petitioner as well as counsel for respondents No.3 and 4, it appears that a detailed counter affidavit has been filed by respondents No.3 and 4.

3. Paragraph No.11 of the counter affidavit filed by respondents No.3 and 4 reads as under:

“11. That in reply to the contents of para 11 of the petition, it is submitted that the Petitioner has not only misrepresented but has made absolutely false and baseless averments on oath before this Hon'ble Court. It is vehemently denied that Mr. Rangasayee Ramakrishna (Retired Member of Rajya Sabha), Rajani Patil (Retired Member of Rajya Sabha) and Mr. Thomas Sangma (Resigned Member of Rajya Sabha) continue to enjoy the benefits accrued to a Member of Parliament despite ceasing to be one. Moreover, Mr. Mukul Roy, ex-Member of Rajya Sabha has already vacated flat no. 181, South Avenue on 19th July, 2019. The same flat was allotted to Shri Swapan Das Gupta, MP as guest accommodation for Shri Mukul Roy, ex-MP, as guest. The details are provided in the table below:

<i>Sl.No</i>	<i>Name</i>	<i>Date of Retirement/ Resignation</i>	<i>Address</i>	<i>Current Status</i>
<i>1.</i>	<i>Rangasayee Ramakrishna</i>	<i>02.04.2018</i>	<i>801, Brahamputra Apartments, Dr. B.D. Marg, New Delhi-110001</i>	<i>Already vacated on 03.05.2018.</i>
<i>2.</i>	<i>Mukul Roy</i>	<i>11.10.2017</i>	<i>181, South Avenue, New Delhi-110011</i>	<i>Already vacated on 19.07.2019.</i>
<i>3.</i>	<i>Rajani Patil</i>	<i>02.04.2018</i>	<i>Flat No.601, Brahamputra Apartments, Dr. B.D. Marg, New Delhi-110001</i>	<i>Already vacated on 16.10.2018.</i>
<i>4.</i>	<i>Thomas Sangma</i>	<i>04.02.2013</i>	<i>404, Brahamputra Apartments, Dr. B.D. Marg, New Delhi-110001</i>	<i>Already vacated on 13.03.2013.</i>

4. It appears from the facts of the case that the respondents have already evolved a detailed mechanism for allotment of houses as well as for vacation of such houses by ex-Members of Rajya Sabha. Moreover, it appears that there is a House Committee of the respondents and the Committee is responsible for allotting houses and also for getting the said houses vacated on the completion of the term of Members of Rajya Sabha. It further appears from the facts of the case that there are enough guidelines for allotment of these houses and for vacating the houses given by the respondents to Members of the Parliament, which is at 'Annexure R3/1' to the memo of the counter affidavit filed by respondents No.3 and 4.

5. Thus, we see no reason to give further guidance to the respondents as to how to allot the houses and how to get them vacated from Members of the Parliament. The respondents have already evolved their own mechanism, their own Committee and their own guidelines, and it is expected from the respondents that they shall follow their own guidelines.

6. It is also submitted by the counsel for respondents No.3 and 4 that looking to the need of ex-Members of the Parliament and also looking to the other circumstances of the concerned persons, sometimes, the House Committee provides extension to continue with the accommodation provided by the respondents, but all these aspects depend on the facts and circumstances of each and every case. Otherwise, as a general rule, they follow the guidelines strictly. It is further submitted by the counsel for respondents No.3 and 4 that every rule has its own exceptions, but that does not mean that the rule itself is violative of any of the provisions of any law for the time being in force.

7. In view of these facts and the counter affidavit of the respondents, and looking to the guidelines of the respondents, and also looking to the fact that there is a Controlling Committee, viz., House Committee, for the allotment of the houses and vacating these houses, we see no reason to give any further order or direction and much less, to issue any writ for the respondents for the prayers made in the memo of the writ petition.

8. Hence, this writ petition is hereby dismissed.

CHIEF JUSTICE

C.HARI SHANKAR, J

SEPTEMBER 03, 2019

kks