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

+ W.P.(C) 7844/2018

MRS. SAVITA SHARMA Petitioner

Through Mr. Rajat Joseph, Advocate.

Versus

UNION OF INDIA AND ANR. Respondents

Through Mr. Vijay Joshi, Sr. Panel Counsel
with Mr. Vinod Kumar, Advocate.

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **14.02.2020**

The petitioner has preferred the instant petition, in effect, seeking issuance of a Writ of Certiorari to quash the order dated 20.07.2017 passed by the Assistant Director of Estates (E) and the subsequent order dated 23.02.2018 passed by the Director of Estates-II on an appeal preferred thereagainst.

Concisely, the facts emerging from the record are that the petitioner was an allottee of the residential accommodation being Quarter No.429, Block-K, Kasturba Nagar, New Delhi-110003, in short 'the subject premises'. She vacated the subject premises on 31.05.2017. A notice dated 01.06.2017 however come to be issued to her by the Asstt. Director of Estates/Su to show cause for having completely/partially sublet it to some unauthorised persons. It is the case of the petitioner that she was neither

served with any such notice nor the report, on the premise whereof, the said notice proceeded. Whether the petitioner was actually served with any such notice and furnished with any report, on which the said Show Cause Notice was founded, nothing comes to be pointed out by the ld. counsel for the respondents. Vide the impugned order dated 20.07.2017, a decision however came to be communicated to the petitioner that in exercise of the powers conferred under Rule 317-B-21 of the Allotment of Government Residences (General Pool in Delhi) Rules, 1963, she was declared ineligible for allotment of general pool residential accommodation for the remaining period of her service besides damages from the date of inspection of the quarter to the date of vacation. Thereagainst, it appears, the petitioner preferred an appeal to the higher authority and that came to be rejected vide the impugned order dated 23.02.2018. It also emerges that when the petitioner appeared before the higher Authority, she sought to explain her position over the subject premises but it did not find favour with the higher authority and the appeal preferred by her was rejected. On the premise of such decisions taken by the Asstt. Director of the Estates (E) and the Director of Estates-II vide the impugned orders dated 20.07.2017 and 23.02.2018, the Disciplinary Authority of the petitioner has proceeded to issue Memorandum dated 12.07.2018 to hold inquiry under Rule 29 of the Delhi District Courts Establishment (Appointment and Conditions of Service) Rules, 2012.

During the course of hearing, on being queried, ld. counsel for the respondents fairly concedes that no proceedings have come to be initiated against the petitioner under Section 4/7 of the Public Premises (Eviction of unauthorised Occupants) Act, 1971, till now. The impugned decisions, it

does not require any elaboration, are the decisions taken in the administrative capacity. These decisions in any event are not shown to have been passed by a quasi-judicial authority. The petitioner on her part strenuously pleads that she could not effectively justify her case to satisfy the concerned administrative authorities that she had not sublet the subject premises or any portion thereof. More so, she was not even served with the report on the premise whereof the show cause notice came to be issued to her. Thus, according to her, the decision taken by the Asstt. Director of Estates (E) vide impugned order dated 20.07.2017, which came to be upheld by the Director of Estates-II vide order dated 23.02.2018, were not sustainable.

The impugned decisions have resulted into serious action of initiation of disciplinary proceedings against the petitioner. For the petitioner to plead contrary to the decision taken by the administrative authorities of the office of the Director of Estate, would, of course, impinge or to say, seriously prejudice her plea to the contrary, before her Disciplinary authority. In the face of the administrative decisions of such magnitude and founded whereon a disciplinary inquiry has come to be initiated against her, the petitioner seeks a fair opportunity to defend herself and justify that she was not served with any report, on which, show cause notice came to be issued and justify her stance effectively. The Court finds merit in her pleas.

For the foregoing reasons, the impugned orders are quashed and the matter is remanded back to the concerned Authorities to proceed further on the show cause notice dated 01.06.2017 afresh, having furnished a copy of the inspection report and having afforded due opportunity of hearing to the petitioner to put forth her case, take a decision afresh.

Writ petition stands disposed of in the foregoing terms. No orders as to cost.

A. K. CHAWLA, J

FEBRUARY 14, 2020

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