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

Judgment delivered on: 08th April, 2021

+ **FAO 128/2020 & CM APPL. 11876/2020**

VIJAY JYOTI BAKSHI Appellant

versus

GOVT OF NCT OF DELHI & ORS Respondents

Advocates who appeared in this case:

For the Appellant: Mr. Tarun Sharma, Ms. Aakansha Kapoor and Ms. Shivani Aggarwal, Advocates.

For the Respondent: Mr. Puneet Mittal, Senior Advocate with Ms. Vasudha Bajaj & Mr. Rupendra Pratap Singh, Advocates for Respondents 2 to 4.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Appellant impugns order dated 06.06.2019 whereby the application of the appellant under Order XXXIX Rule 1 and 2 CPC, to the limited extent that it sought a restraint on respondent Nos. 2 to 4 from deducting Rs. 50,000/- per month from the salary of the appellant, has been dismissed.

2. Appellant is a Teacher in the school run by respondent Nos. 2 to 4.

3. Appellant was allotted the Flat No.16, DPS Staff Flats, East of Kailash, New Delhi on licence basis. The licence has been terminated by letter dated 23.01.2019 requiring appellant to vacate the flat by 22.02.2019. Appellant has further been directed by letter dated 15.03.2019 to pay market rent with effect from 01.03.2019 at the rate of Rs. 50,000/- per month and the said amount has been directed to be deducted from her salary after adjustment of the existing HRA which is the entitlement of the petitioner in case the appellant is not allotted a residence by the respondent.

4. Appellant impugned the said termination as also impugned the rate of Rs. 50,000/- sought to be charged by the respondent Nos. 2 to 4 for the said flat.

5. Appellant is continuing to serve in the school as a Teacher.

6. Learned counsel for the appellant contends that no reason has been given by the respondent as to why the licence has been terminated except to state that the respondent Nos. 2 to 4 are entitled to revoke the licence at any time without assigning any reason whatsoever.

7. Learned counsel for the appellant submits that appellant has been victimised as appellant had raised her voice against respondent Nos. 2 to 4 for continuing the appointment of respondent no. 3 as the Principal of the school.

8. It is contended that appellant being a senior teacher was aspiring to become the Principal of the school but she was denied the opportunity by granting extension to respondent No.3.

9. Learned counsel submits that because appellant took the courage of voicing her dispute, she has been victimised and subject allotment has been cancelled and exorbitant amount of Rs. 50,000/- is being deducted from her salary.

10. Per contra, learned senior counsel appearing for the Respondents 2 to 4 denies that appellant has been victimised.

11. It is contended that appellant was never eligible for being appointed as a Principal. He further submits that allotment of the said flat has been cancelled for valid reason.

12. It is submitted that the reason for cancellation of allotment is that a complaint was received that appellant along with her brother had misbehaved with a security guard of the Society, Further, it is alleged that a complaint was received from the Residence Welfare Association of the area, where the flat is situated, that appellant was indulging in prejudicial activity by feeding stray dogs.

13. With regard to the quantum of damages claimed, it is contended by learned senior counsel for the respondent that the damages claimed are commensurate with the nature of the flat as well as the locality where the Flat is situated.

14. Trial Court by the impugned order has held that it is evident that appellant was being pushed to the wall in order to coerce her to vacate the flat.

15. Trial Court found a prima facie case in favour of the appellant and also found that balance of convenience lay in favour of the appellant and that she was likely to suffer irreparable loss if the said respondents were not restrained from stopping electricity, water and piped natural gas supply to her flat.

16. Accordingly, part interim order was granted in favour of the appellant, restraining the respondents 2 to 4 from disconnecting the electricity, water and piped natural gas supply to her flat. However, the Trial Court was of the view that no ground was made out for restraining respondent Nos.2 to 4 from deducting Rs. 50,000/- per month from her salary.

17. Perusal of the Impugned order shows that while the trial court has returned a finding that appellant has made out a prima facie case in her favour, however, the trial court has not given any reason as to on what basis it has come to the conclusion that no ground was made out for restraining respondents No. 2 to 4 from deducting Rs. 50,000/- per month from her salary.

18. Termination letter dated 23.01.2019 shows that no reason has been cited in the letter except to state that as per the licence

agreement, the licence was terminable without assigning any reason.

19. In the written statement filed by the said respondents, the reason given is that the licence was terminable without assigning any reason. The other reason mentioned is that appellant was indulging in the activity of feeding street dogs in the area some of which were aggressive and had bitten residents and as such RWA of the area had made a complaint against the appellant.

20. Further, it is alleged that appellant is guilty of discouraging teachers and spreading rumours amongst teachers with regard to Kerala Flood Relief Contribution Programme initiated by the school.

21. It is alleged that said activity is working against the society and public interest and as such she was asked to step down from the post of the Head of the Hindi Department. Further it is alleged that the security deployed at the society quarters had complained that the appellant and her brother had misbehaved and threatened a security guard for which a complaint was received on 07.01.2019. It is in these circumstances, it is alleged, that it was decided to terminate the licence of the appellant.

22. Even though, in the written statement, respondent Nos. 2 to 4 have sought to justify their conduct, however, the termination letter dated 23.01.2019 and the subsequent letter dated 13.03.2019, no reason whatsoever has been given for the termination.

23. Even if a licence is terminable without assigning any reason, the authority cannot act arbitrarily and discriminately. It is not the case of the Respondents that allotment of all teachers was sought to be cancelled and appellant has not been singled out. No reason has been given in the termination letter. Appellant is admittedly a very senior teacher in the school. Even as per the written statement of the respondents 2 to 4 she was Head of the Hindi Department and was made to give up the said post as she was allegedly discouraging teachers and spreading rumours amongst teachers with regard to Kerala Flood Relief Contribution Programme initiated by the school.

24. Though no reason has been given in the termination letter, however in the written statement it is alleged that the appellant and her brother had misbehaved with a security guard.

25. No material has been produced by the respondent to even prima facie show that any enquiry worth its name was conducted prior to accepting the allegations of the security guard of misbehaviour by the appellant and her brother and action being taken of termination of the flat. Similarly, no material has been produced to prima facie show that there was any merit in the complaint of the RWA that appellant was feeding stray dogs. Even if appellant was feeding stray dogs near her house, can it be reason enough to terminate the allotment of the flat in her favour.

26. Further, Respondents no. 2 to 4 have not produce any material

to show that any of the complaints received from the RWA or the security guard were ever put to the appellant and an opportunity given to her to respond to them, prior to taking the punitive action of cancellation of her allotment.

27. Prima facie, there is merit in the contention of the learned counsel for the appellant that appellant was being victimised because of her complaints against the school authorities vis-à-vis the extension granted to respondent no. 3 so that she could continue as the principal of the school.

28. The judgment of the Division Bench of this court relied upon by learned senior counsel for the appellant in the case of *DTTDC versus D.R. Mehara AIR 1996 Delhi 351* to contend that a person whose licence has been terminated cannot seek injunction against the true owner, is not applicable to the facts of the present case inasmuch as in the said case issue was with regard to termination of a licence to run liquor shop granted by the Corporation. There was a dispute as to whether the plaintiff therein was the tenant or a licensee and the plaintiff was seeking injunction on the ground that he was a tenant and not a licensee to which submission the Division Bench of this Court held that a person who himself asked the owner to enter into a licence and entered into such an agreement cannot after expiry thereof seek an injunction against the owner from dispossessing him.

29. In the present case, appellant was allotted the accommodation

being a teacher. Appellant is still continuing to teach in the school and as it is stated above, she was also the Head of the Department of the Hindi Department which shows that the appellant is a senior teacher in the school. No reason has been mentioned by the respondent as to why the licence has been terminated except to say that the licence is terminable without assigning any reason.

30. Trial Court while holding that a Prima facie case is made out in favour of the appellant for restraining the respondents from disconnecting the electricity etc., has clearly erred in holding that no prima facie case is made out for restraining respondent from deducting Rs. 50,000/- per month from her salary. Particularly when no reason has been given by the trial court in the impugned order for holding so.

31. I am of the view that the appellant has made out a strong prima facie case even for grant of an injunction restraining respondent Nos.2 to 4 from deducting a sum of Rs. 50,000/- from the salary of the appellant pending the disposal of the Suit. The balance of convenience is in favour of the appellant and in case the respondents are not restrained from deducting Rs. 50,000/- per month from her salary, irreparable loss and injury would be caused to the appellant.

32. In view of the above, the appeal is allowed and respondent Nos. 2 to 4 are restrained from deducting a sum of Rs. 50,000/- per month from the salary of the appellant pending final disposal of the Suit.

33. It is clarified that the observations contained herein are prima facie in nature and would not have any bearing on the merits of the case of either party. All rights and contentions of parties are reserved.

34. *Dasti* under signatures of the Court Master

APRIL 8, 2021
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SANJEEV SACHDEVA, J

Note: The Judgment was pronounced in open court on 08.04.2021 but was corrected and released only on 17.04.2021.

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