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

% Judgment delivered on: 07th September, 2021

+ CM(M) 446/2021

SUSHIL DUTT

..... Petitioner

versus

ESTATE OFFICER/ AOC & ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Yudhvir Singh Chauhan, Advocate

For the Respondents: Mr. Ripudaman Bhardwaj, Standing Counsel

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J.

1. Petitioner impugns order dated 07.07.2021 whereby the appellate authority under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, declined to grant an interim stay to the petitioner from vacating the staff accommodation.

2. Petitioner was appointed as an LDC in 1998 under the indigent circumstances on compassionate ground by the Air Officer In-Charge Personal (AOP), who holds the rank of an Air Marshal.

3. A case under the Prevention of Corruption Act was registered

against the petitioner on 30.06.2016. Petitioner was convicted and sentenced to undergo five years rigorous imprisonment. The allegations against the petitioner were that he had made cash deposits of over Rs. 16 crores in his bank account. Petitioner has denied the allegation.

4. Consequent to the conviction of the petitioner in the said case, by order dated 15.02.2020, petitioner was dismissed from service under Rule 14 read with Rule 19(i) of the Central Civil Services (Classification, Control and Appeal) Rules 1965.

5. Though petitioner has impugned the said dismissal order before the Central Administrative Tribunal, however, it is an admitted position that there is no stay of the said dismissal order and petitioner continues to remain dismissed from service.

6. During his employment, the petitioner was allotted a quarter bearing No. D-2, Vashist Vihar, Rock View Area, 3 Wing, Air Force Station, Palam, Delhi Cantt.

7. Post his dismissal he was permitted to continue to occupy the said quarter for a period of one month i.e. from 18.02.2020 till 17.02.2020. Petitioner was also struck off the strength of the Air Force on 18.02.2020.

8. Since petitioner failed to vacate the quarter, after expiry of the

period of one month, proceedings under the Public Premises Act were initiated. Said proceedings culminated in an order of eviction proceedings passed on 03.11.2020.

9. By order dated 12.03.2021 the Appellate Authority i.e. the District Judge remitted the matter to the Estate Officer to pass a fresh order after giving an opportunity of hearing to the petitioner.

10. Consequently, another order dated 23.06.2021 was passed by the Estate Officer once again directing the petitioner to vacate the premises within a period of 15 days.

11. Petitioner filed the subject appeal impugning order dated 23.06.2021. In the said appeal, the Appellate Authority by order impugned herein dated 07.07.2021 declined to grant any interim stay.

12. Petitioner has filed this petition impugning the order declining the grant of stay.

13. Before this Court, petitioner has not been able to show any right or entitlement of the petitioner to retain the premises. It is an admitted position that petitioner stands dismissed from service in exercise of powers under Rule 14 read with Rule 19(i) of the Central Civil Services (Classification, Control and Appeal) Rules 1965 and there is no stay of the said order of dismissal.

14. Since petitioner does not remain in the service and has been struck off from the strength of the Air Force, petitioner is not entitled to continue in possession of the accommodation which was allotted to him being in service.

15. Mere fact that an appeal is pending against an order of dismissal does not entitle petitioner to continue in occupation of the quarter meant for service personnel and allotted to the petitioner and consequently to an interim protection.

16. I find no infirmity in the order dated 07.07.2021 whereby the appellate authority has declined to grant stay to the petitioner from eviction from the subject quarter.

17. A dispute has been raised by the counsel for the petitioner that petitioner has not handed over possession of the subject quarter but the quarter was forcibly taken over by the respondent.

18. An affidavit has been filed by the respondent pursuant to order dated 26.07.2021 wherein though it is recorded that petitioner did not hand over the keys, however in the presence of the members of the Board of Officers, the lock was broken and inventory of service item was checked and no personal belongings of the petitioner was found inside the quarter.

19. It is not disputed by learned counsel for the petitioner that

petitioner has removed all his belongings from the said quarter. His case is that he had not physically not handed over possession.

20. Since the accommodation is within the boundary of the Air Force Station, I do not find any infirmity in the action taken by the respondent in appointing a Board of Officers chaired by a Commissioned Officer of the rank of Wing Commander.

21. Mere fact that the petitioner did not physically hand over the possession of the premises, does not entitle the petitioner for any protection. Proceedings of the Board have been placed on record along with photographs which clearly show that the entire premises had been vacated and no article of the petitioner was found.

22. It may further be noticed that before the Appellate Authority, on 07.07.2021, as recorded in the impugned order, petitioner had stated that since he was served on 03.07.2021, 15 days time be granted to vacate the premises. Accordingly, the Appellate Authority directed Petitioner to vacate the premises on 18.07.2021.

23. Petitioner thereafter admittedly vacated the premises but did not hand over the keys. A notice was pasted on the premises on 20.07.2021 and the Premises were taken over under the supervision of the Board of Offices on 22.07.2021.

24. The malafide conduct of the petitioner further requires a

mention as petitioner, who was not entitled to continue in occupation, sought time to vacate, which was granted till 18.07.2021 and he vacated the premises on 18.07.2021 but purposely did not hand over the keys to the respondent.

25. As held herein above, petitioner after his termination did not have any right or entitlement to continue in occupation of the government accommodation which was allotted to him being in service.

26. In view of the above, I do not find any infirmity in the impugned order or any merit in the petition. The petition is accordingly dismissed.

SEPTEMBER 7, 2021
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SANJEEV SACHDEVA, J

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