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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.2641 of 2021 (O&M)
Date of Decision: 09.01.2023**

SAROJ

.....Petitioner

Vs

CHIEF ADMINISTRATOR AND ANR

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Kamal Deep Sehra, Advocate and
Ms. Meena, Advocate
for the petitioner.

Mr. Viresh Dahiya, Advocate for
Mr. Deepak Balyan, Advocate
for the respondents.

RAJ MOHAN SINGH, J.(Oral)

The petitioner has preferred this writ petition for the issuance of an appropriate writ in the nature of certiorari for quashing the order dated 18.06.2020 (Annexure P-2) passed by the Executing Engineer, Housing Board, Haryana thereby imposing extra rent/penal rent to the tune of 0.5% per month of the market value of the flat.

A government accommodation was allotted to the petitioner on 10.09.2019. As per terms and conditions, if the house in question was required for allotment to the employees

of Housing Board, Haryana, then the house can be got vacated by giving 30 days notice. The house was never sought to be vacated on the grounds as mentioned in the allotment letter, rather the respondent No.2 vide notice dated 18.06.2020 (Annexure P-2) sought to get the house in question to be vacated on the ground that the house was required by the Housing Board for disposing of the same due to precarious financial condition of the Board as there was huge liability which was to be discharged by selling of the flats in question.

The aforesaid condition was not part of any terms and conditions on which the flat in question was allotted to the petitioner on 10.09.2019. The petitioner was asked to vacate the flat by 31.08.2020 and in the event of failure on the part of the petitioner, a penal rent was to be charged @ 0.5% per month on the current market value of the flat. The calculations have been made in respect of Type-IV flat showing the amount of Rs.21,000/- to be the extra rent on account of the aforesaid 0.5% per month.

The petitioner has already vacated the flat on 31.12.2020 and for four months, the respondent-Board has calculated penal rent to the tune of Rs.84,000/-.

Learned counsel for the petitioner submits that on receipt of notice dated 18.06.2020, the petitioner has already represented before the Secretariat of the Hon'ble Chief Minister

of Haryana. The Hon'ble Speaker of Haryana Vidhan Sabha vide dispatch No.HS/N/20/1361 dated 16.07.2020 recommended that all the employees, who were residing in the houses of Housing Board be considered sympathetically to retain these houses upto April 2021. The petitioner was suffering from COVID-19 at the relevant time and her isolation period was from 02.09.2020 to 12.09.2020.

The reply filed by the respondents is conspicuously silent as regards the receipt of representation of the petitioner within 30 days of issuance of show cause notice. Even otherwise, this Court is of the considered opinion that the petitioner was sufficiently prevented from vacating the house for a period of 4 months firstly on account of condition No.6 which was never in existence as the house was not sought to be vacated for allotting the same to the employee of the Housing Board. Secondly, the proposed selling of the flat was not in the terms and conditions of the allotment. The show cause notice was issued on 18.06.2020 and the petitioner was required to vacate the house by 31.08.2020. The petitioner made a representation to the Government and the Speaker, Haryana Vidhan Sabha vide Dispatch dated 16.07.2020 had issued necessary recommendations not to force the employees and allow them to retain the houses till April 2021. Moreover, due to *force majeure event*, even during currency of COVID-19, the

petitioner was sufficiently prevented from vacating the house. The issue is of four months. The house in question has already been vacated by the petitioner.

In view of aforesaid facts and circumstances, I deem it appropriate to quash the order dated 18.06.2020 passed by the respondent No.2. The amount so deposited by the petitioner be refunded to her after due compliance of necessary formalities.

Petition stands allowed.

January 09, 2023	(RAJ MOHAN SINGH)
Atik	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No