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

CWP-27213-2023

Date of decision: 05.12.2023

Naresh Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. M.S. Rana, Advocate for the petitioner

Ms. Rajni Gupta, Addl. A. G., Haryana.

VIKAS BAHL, J. (ORAL)

1. This is a Civil Writ Petition under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the letter/notice dated 06.11.2023 (Annexure P-9) and 22.11.2023 (Annexure P-11) passed by the respondent-authorities whereby the petitioner has been ordered to vacate the premises of house No.73, Type-III, Revenue Colony, Rohtak.

2. Learned counsel for the petitioner has submitted that in the present case, the petitioner was allotted Government accommodation bearing House No.73, Type-III, Revenue Colony, Rohtak on 25.05.2022 and was thereafter, promoted to the post of Assistant Superintendent. It is further submitted that the petitioner is suffering from 100% locomotor

disability and in support of the same, has relied upon the document annexed as Annexure P-2. It is contended that the petitioner had suffered a heart attack and had also undergone a heart operation 6 months ago. It is further contended that even the wife of the petitioner is suffering from cancer and is in her last stage and the daughter of the petitioner is studying in 12th class and is taking tuition in physics and chemistry for which the petitioner has already paid the tuition fees. It is also submitted that the authorities, vide order dated 20.09.2023 (Annexure P-4), had granted time till 12.11.2023 to vacate the premises but on account of the said extreme and exceptional circumstances, it has been prayed that the petitioner be granted more time uptill 05.02.2024 to vacate the premises and further states that in case, the said period is granted, then he undertakes to vacate the premises on or before 05.02.2024 and would hand over the keys of the premises to the respondent authorities. It has further been pleaded that the petitioner has no other house other than the said official accommodation

3. Learned State counsel appearing on behalf of respondent Nos.1 to 4 has submitted that the request of the petitioner on compassionate consideration was entertained and therefore, he was given time uptill 12.11.2023 to vacate the house. It is further submitted that the subsequent representations stating all the said facts were also taken into consideration and the same were rejected vide order dated 06.11.2023 (Annexure P-9). It is further submitted vide notice dated 22.11.2023 (Annexure P-11), the petitioner had been directed to vacate the premises within three working days failing which the petitioner will be liable to pay 50 to 300 times of the license fees as applicable. Learned State counsel has prayed that any order

passed in favour of the petitioner should not be treated as precedent.

4. Learned counsel for the petitioner, in rebuttal, has submitted that the request made by the petitioner vide representation dated 27.10.2023 (Annexure P-5) was rejected by passing a cryptic and non-speaking order dated 06.11.2023 without giving an opportunity of hearing to the petitioner. It is prayed that at any rate, in view of the exceptional circumstances, the limited relief prayed for be given to the petitioner and his family.

5. This Court has heard learned counsel for the parties and has perused the paper book.

6. The fact that the petitioner is suffering from 100% locomotor disability is prima facie proved from document annexed as Annexure P-2. In the representation dated 27.10.2023 as well as in the subsequent representation dated 10.11.2023, the petitioner had specifically stated that his wife is suffering from cancer and is in the last stage and that the petitioner, apart from being 100% disabled employee, had also undergone heart operation 6 months ago. It has also been stated that the daughter of the petitioner is studying in 12th class and her tuition fees for physics and chemistry have already been deposited. It is further the case of the petitioner that they have no other house other than the said official accommodation and in case time is not granted to them, then the entire family would be rendered homeless. Vide order dated 06.11.2023, the representations moved by the petitioner were rejected and the said order is cryptic and non-speaking and does not show any application of mind.

7. Keeping in view the abovesaid exceptional facts and circumstances and the limited prayer made by learned counsel for the

petitioner, the present writ petition is disposed of with the following observations:-

- (i) The petitioner is granted time uptill 05.02.2024 to vacate the premises in question.
- (ii) The petitioner would hand over the keys of the house in question to the competent authority of respondent No.4 on or before 05.02.2024 at 12:00 noon. In case the petitioner does not vacate the said premises by 05.02.2024 at 12:00 noon, then it would be open to the respondent-authorities to get the house vacated with the help of police at the risk and cost of the petitioner in accordance with law.
- (iii) In case, petitioner does not vacate the premises by 12 pm on 05.02.2024, then the respondent-authorities would be entitled to charge penal license fee from 12.11.2023.

8. The said order has been passed keeping in view the exceptional circumstances and the health issues faced by the petitioner and his family and thus, the same should not be treated as precedent.

05.12.2023

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No