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

+ **W.P.(C) 16420/2023 & CM APPLs. 66099/2023, 66100/2023**

MAHUA MOITRA

..... Petitioner

Through: Mr. Pinaki Mishra, Sr. Advocate with
Mr. Shadan Farasat, Ms. Hrishika
Jain, Ms. Natasha Maheshwari and
Mr. Aman Naqvi, Advocates.

versus

DIRECTORATE OF ESTATE & ANR.

..... Respondents

Through: Mr. Chetan Sharma, ASG with Mr.
Apoorv Kurup, CGSC and Mr.
Anurag Ahluwalia, CGSC along with
Mr. Amit Gupta, Mr. Saurabh
Tripathi, Mr. Vikram Aditya Singh
and Mr. Akhil Hasija, Advocates for
R-1.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

04.01.2024

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1. The instant writ petition has been filed with the following prayers:

“a) issue a writ of certiorari or such other appropriate writ, order, or direction for quashing Respondent No.1’s order dated 11.12.2023 bearing No. DII-9B/THL/DoE/TVA-2023 cancelling the Petitioner’s government accommodation w.e.f. 7.01.2024,

IN THE ALTERNATIVE,

b) issue a writ of certiorari or such other appropriate



writ, order, or direction allowing the Petitioner to retain possession of her government accommodation till the results of the 2024 General Elections;

c) pass such other order(s) as it may deem fit in the facts of the present case.”

2. The Petitioner herein is a former Member of Parliament. Material on record indicates that a Notification bearing S.O. 5227(E) dated 08.12.2023 was issued by the Lok Sabha Secretariat expelling the Petitioner from the membership of Lok Sabha with effect from 08.12.2023 afternoon.
3. It is pertinent to mention here that the Petitioner had been allotted a Government Accommodation of Type 5A(D-II) bearing House No.9B, Type 5A, Locality: Telegraph Lane, New Delhi. A Communication bearing No.DII-9B/THL/DoE/TVA-2023 dated 11.12.2023 was sent by the Directorate of Estates, Government of India to the Lok Sabha Secretariat with a copy of the Petitioner informing that the allotment of the said Government Accommodation has been cancelled with effect from 07.01.2024 and directed the Petitioner to handover the vacant possession of the said Government Accommodation to the CPWD Enquiry Office. The said intimation also indicates that in accordance with SR-317-B-22, the Petitioner is also liable to pay damages for the period of overstay.
4. Material on record indicates that the Petitioner has also approached the Apex Court challenging her expulsion from the Member of Parliament.
5. The Petitioner has, thereafter, approached this Court seeking quashing of the Communication bearing No.DII-9B/THL/DoE/TVA-2023 dated 11.12.2023 cancelling the allotment of Government Accommodation to the Petitioner with effect from 07.01.2024. It is also prayed that the Petitioner



may be allowed to retain possession of her Government Accommodation till the results of 2024 General Elections on the ground that she would be busy in campaigning for election and, therefore, it would be difficult for her to search an alternate accommodation for this period.

6. SR 317-B-22 of the Compendium of the Allotment of Government Residences (General Pool in Delhi) Rules, 1963 which deals with overstay in residence after cancellation of allotment reads as under:

“OVERSTAY IN RESIDENCE AFTER CANCELLATION OF ALLOTMENT.

Where, after an allotment has been cancelled or is deemed to have been cancelled under any provision contained in these rules, the residence remains or has remained in occupation of the officer to whom it was allotted or of any person claiming through, such officer shall be liable to pay damages for use and occupation of the residence, services, furniture and garden charges, as may be determined by government from time to time;

Provided that an officer, in special cases, except in case of death, may be allowed by Directorate of Estates to retain a residence for a period not exceeding 6 months beyond the period permitted under SR 317-B-11(2), on payment of twice the flat rate of licence fee or twice the licence fee he was paying, whichever is higher;

Provided further that in the event of death of the allottee, his/her family shall be eligible to retain the Government accommodation for a further period of one year on payment of normal licence fee. The extended period of retention shall not be allowed in cases where the deceased officer or his/her dependents owns a house at the place of posting.”



7. A perusal of the aforesaid rule shows that in exceptional cases the allottee of the Government Accommodation may be allowed by Directorate of Estates to retain a residence for a period not exceeding 6 months beyond the period permitted under SR 317-B-11(2), on payment of twice the flat rate of licence fee or twice the licence fee which was being paid, whichever is higher.

8. The Petitioner has yet not approached the Directorate of Estates. Confronted with this, the learned Senior Counsel appearing for the Petitioner states that he would withdraw the present writ petition and approach the Directorate of Estates for consideration of the case of the Petitioner in accordance with SR 317-B-22. He states that the decision was a fait accompli inasmuch as no time has been given to the Petitioner and the Petitioner has been subjected to coercive action by directing immediate eviction from the premises.

9. Section 3(B) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 which deals with eviction from residential accommodation reads as under:

“3B. Eviction from residential accommodation.—(1)
Notwithstanding anything contained in section 4 or section 5, if the estate officer has information that any person, who was granted residential accommodation occupation, is in unauthorised occupation of the said residential accommodation, he shall—

(a) forthwith issue notice in writing calling upon such person to show cause within a period of three working days why an order of eviction should not be made;

(b) cause the notice to be served by having it



affixed on the outer door or some other conspicuous part of the said residential accommodation, and in such other manner as may be prescribed, whereupon the notice shall be deemed to have been served upon such person.

(2) The estate officer shall, after considering the cause, if any, shown by the person on whom the notice is served under sub-section (1) and after making such inquiry as it deems expedient in the circumstances of the case, for reasons to be recorded in writing, make an order of eviction of such person.

(3) If the person in unauthorised occupation refuses or fails to comply with the order of eviction referred to in sub-section (2), the estate officer may evict such person from the residential accommodation and take possession thereof and may, for that purpose, use such force as may be necessary.]”

10. The aforesaid Section 3B postulates that any person who is liable to be evicted from a residential accommodation has to be given three days’ notice without which a person cannot be evicted. Similarly Section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 also provides issuance of notice to show cause against the Order of eviction within seven days.

11. Needless to state that the Government will only take steps in accordance with law to evict the Petitioner.

12. In view of the above, the writ petition is disposed of as withdrawn, along with pending application(s), if any.

13. It is made clear that since the learned Senior Counsel appearing for the Petitioner has withdrawn the writ petition and no arguments have been



advanced on the merits of the case, this Court has not made any observations on the merits of the case. It is open for the Directorate of Estates to apply its own mind on the facts and circumstances of the case.

SUBRAMONIUM PRASAD, J

JANUARY 4, 2024

S. Zakir