

CENTRAL ADMINISTRATIVE TRIBUNAL
● PRINCIPAL BENCH, NEW DELHI.

OA-547/98

New Delhi this the 7th day of October, 1998.

Hon'ble Shri S.P. Biswas, Member(A)

Shri Swarn Singh,
R/o E-446, Kasturba Nagar,
(Sewa Nagar),
New Delhi-3.

..... Applicant

(through Sh. Subramonium Prasad, advocate)

versus

1. The Estate Officer,
Directorate of Estates,
Nirman Bhawan,
New Delhi.

2. Union of India through
the Director of Estates,
Nirman Bhawan,
New Delhi.

3. Administrative Authority
C.P.W.D., Horticulture Division,
I.P. Bhawan(South),
New Delhi.

..... Respondents

(through Sh. R.V. Sinha, advocate)

ORDER(ORAL)

Heard the learned counsel for both parties.

2. The fate of the case hinges on the determination as to whether the Flat No.E-446, Kasturba Nagar, under the control of the Director of Estates, was sub-letted or not. Shri Subramonium Prasad, learned counsel for the applicant would argue that the present

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case is not one of subletting because of the following grounds:-

(i) That the applicant had only been out of the quarter for attending a marriage and in that intervening period had handed over the key of the premises to the neighbour and if the said quarter was being occupied by somebody else, not known to him, he could not be held responsible for the purpose of subletting.

(ii) That the day he appeared before Deputy Director in charge of subletting, the applicant did represent his case before the authorities concerned with ration card, CGHS card and election identity card to substantiate that he is the regular allottee of the said quarter and it was not a case of subletting.

(iii) That the respondents vide their letter dated 29.7.97 have indicated that the applicant could come up with an appeal within a period of 60 days which would have expired on 14.10.97. Much before the expiry of the said date, the applicant had to face the civil consequences in the shape of receipt of the impugned order at Annexure-A dated 1.9.97.

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3. Shri R.V. Sinha, learned counsel for the respondents opposed the claim and submitted that this is a case which on all fours is to be treated as a case of subletting. The procedure for determination of subletting had been adhered to by means of a properly constituted physical spot inspection by an officer of the rank of Assistant Director/Estates accompanied by others. The learned counsel for the respondents would also submit that the applicant has not even challenged the cancellation order and has been given all the opportunities to represent his case against the charge of subletting. As per the allotment rules of general pool accommodation enunciated by the Ministry of Urban Development in 1963, the allotment could be cancelled for a variety of reasons of which subletting is one. The criteria for determination of subletting is by physical inspection by a group of officers on the receipt of the complaints mostly from neighbourhood. From the inspection report, as at Annexure R-1, it is evident that the said inspection was carried out incognito by a group of officers including the Superintendent of the Accounts Section. The officers went to the house and found somebody else who were not regular allottees. This was followed by a show cause notice on 7.7.97 and the allottee was asked to prove his credentials before the Deputy Director concerned on 24.7.97. The allottee appeared before the Deputy Director accordingly and presented his case.

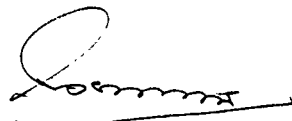
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4. I find that the case after having been initially scrutinised was also put up before the Deputy Director Incharge of subletting. Based on the evidences and records available the Deputy Director Incharge of subletting matters came to the conclusion-"I am fully satisfied that it is a case of subletting". When the case has been established as one of subletting and has been followed by offer of adequate opportunities to the aggrieved person to represent against the same, the Tribunal could not substitute its view in that regard. It was for the applicant to dispel the correctness of the allegations made against him. It was open to him to adduce necessary documents including the presence of the neighbourhood witness^{es} and certificates that he had not sub-letted the quarter to somebody else. The applicant has not taken the trouble of adequately controverting the charges against him.

5. In the facts and circumstances of the case, I do not find it to be an appropriate case to exercise our discretionary jurisdiction under Art. 226 of the Constitution and provide relief in the absence of materials that could warrant interference. The application is without any merit and is accordingly dismissed.

6. The interim order passed on 11.03.98 shall stand vacated.


(S.P. Biswas)
Member(A)