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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.NO.1239/95

New Delhi, this the 9th day of February, 1996

Hon'ble Smt. Lakshmi Swaminatha, Member (J)

Shri Padam Pratap Takia,
r/o D-767, Kidwai Nagar,
New Delhi.

... Applicant

By Advocate: Shri George Parackal

Vs.

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

... Respondents

By Advocate: Shri VSR Krishna

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminatha, Member (J)

The applicant has filed this application under section 19 of the A.T. Act, 1985 being aggrieved by the order of eviction dated 27.6.95 issued by the Estate Officer (Annexure A). In this order the reasons given for passing the order under section 5(1) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 are that the applicant is continuing to occupy the public premises, namely Quarter No. D-767, Kidwai Nagar, New Delhi which allotment has been cancelled with effect from 4.4.95 by order dated 2.2.95 (Annexure D). The order dated

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27.6.95 is an order directing the applicant and all other persons who were in occupation of the quarter to vacate the said premises within the period stipulated therein.

2. The brief facts of the case are that the applicant is a Peon working with Respondent I. He was allotted Quarter No.D-767, Kidwai Nagar, New Delhi on 25.4.91. According to him from the date of the allotment of the quarter he and his family, comprising of his wife, one daughter Ms. Seema and a son Ravi Kumar and aged father and mother have been living in the said quarter. Shri Sadanand, who is ^{an} allottee of Q.No.D-765, Kidwai Nagar and neighbour of the applicant has been ~~enimical~~ towards him and his family. He states that Shri Sadanand had, therefore, made a complaint to the respondents, regarding subletting of the quarter allotted to the applicant.

3. According to the applicant not only he asserts that he has been continuously residing in the quarter allotted to him with his family but ~~he~~ he has also produced a number of letters from Maharishi Balmiki Mandir Samiti dated 2.4.95 that the applicant, who is a member of this Simiti, is the resident in the quarter. He has ~~also~~ referred to the letter from Block Samaj Kalyan Sabha dated 25.2.95 to the same effect. (Annexures C and B). He has also produced the monthly receipts of the Samaj Kalyan Sabha dated 11.10.93 and 10.12.94. According to him when the

respondents made a surprise check on the house on 11.10.94 at 1.20 p.m., he was away at work, his wife who was then pregnant had gone to the hospital and therefore a statement of his daughter Ms. Seema had been taken by the Inspecting Officer.

4. The applicant further submits that prior to the issuance of the impugned order dated 2.2.95 he had met the Deputy Director (Sub-letting) with all documentary proof of his stay in the quarter allotted to him, including the ration card, CGHS card and the letters from persons in the locality, referred to above, to show his occupation of the allotted quarter. His grievance is that inspite of producing all these documentary proof, the order cancelling the allotment had been issued on 2.2.95 which is arbitrary and illegal. However, he submits that the Deputy Director (Subletting) had again called him to produce the necessary documents to show that he was staying in the premises. Learned counsel for the applicant, Shri George Parackal, submits that at the time of inspection on 11.10.94 Ms. Seema, daughter of the applicant was not in a position to answer properly the questions put to her.

5. The respondents have filed a reply denying the above averments. They have submitted that on receipt of a complaint of subletting the quarter allotted to the applicant ~~on 6.10.94~~ ¹³ on 6.10.94, the respondents carried out a surprise inspection of the quarter on 11.10.94. They have stated that neither the allottee nor his family, namely his wife, father, ^{or} mother children were found in the quarter. A family of one Mr. Banwari Lal consisting of his wife, Aruna Devi, and their two sons Aravind and Sunil and daughters Seema and Reena were found in the quarter. Shri VSR Krishna, learned counsel for the respondents has referred to the inspection report (Annexure A-1) dated 11.10.94. In particular he draws attention to para 5. In this column to the question as to who are the persons found in the house and the members thereof, he points out that it is mentioned as follows-

Ms. Seema VIIIth Class
 Shri Banwari Lal
 Bank of Paroda, Vasant Vihar
 (rest illegible)

Against column 10 regarding the ~~details~~ of schooling of the allottees children, the following are mentioned:

1. Sunil Kumar
1st year Arvind College
2. Ku. Seema, daughter VIIIth class
3. Ku. Reena, Daughter XIIth Class
(rest illegible)
4. Arvind IVth Class (rest illegible)
5. Aruna Devi
w/o Banwari Lal (rest illegible).
service

6. The respondents have submitted that Ms. Seema found in the quarter on 11.10.94 was a student of VIIIth class and had given a statement in writing in the inspection report that she is residing in the quarter alongwith her parents, sister and brothers. They submit that the ration card of the applicant dated 3.10.94 (Annexure 'F-2') shows the age of Seema Rani, daughter of the applicant as 11 years in 1994. Therefore, they submit that Seema, daughter of Shri Banwari Lal found in the quarter is not the daughter of the applicant whose family was found living in the quarter allotted to the applicant. They have also stated that the letter dated 2.2.95 is an order cancelling the quarter and thereafter, the impugned order dated 27.6.95 has been issued to the applicant in accordance with the provisions of Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971. Shri VSR Krishna, on behalf of the respondents, submits that the competent authority has on the basis of records and available report come to the conclusion that the quarter in question has been unauthorisedly subletted by the applicant and the impugned orders are, therefore, legal and valid. In the circumstances, he urges that this Tribunal ought not to interfere in the matter and the application may be dismissed.

7. The applicant has also filed a rejoinder to the reply more or less stating the same averments made in the application, namely that the orders of cancellation and the eviction are arbitrary, illegal and therefore invalid and not in accordance with the provisions of Sections 4 and 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

8. I have carefully considered the arguments of both the learned counsel for the parties, pleadings and the record.

9. The applicant has alleged that there is no subletting of the quarter allotted to him and that the findings of the competent authority are arbitrary and illegal. From the pleadings in this case which is also admitted by the learned counsel for the applicant it is seen that the applicant has been issued a show cause notice and he has been given reasonable opportunity to put forward his case before the competent authority before ^{the} impugned orders dated 2.2.95 and 27.6.95 were issued. The grievance of the applicant is mainly that the competent authority, namely, the Estate Officer has not taken into account his version of the facts or taking into account the documentary proof

which has been produced in the form of the ration card and the CGHS card, which mentions ~~has been made~~ ^{his} that the applicant and his family consisting of ^{his} father, mother, wife, daughter Seema and sons Rakesh Kumar and Ravi Kumar are staying in the quarter. The respondents on the other hand have produced the inspection report in which the person Seema found in the quarter has stated that she is the student of VIIIth class whereas Seema Rani, daughter of the applicant is stated to be only 11 years in the ration card issued in 1994. Apart from this, in the statement recorded in the inspection report on 11.10.94 Seema has stated that she is staying alongwith ^{her} ~~his~~ Mama, Papa and her Behen and Bhai i.e. Sister and brothers. The applicant has nowhere stated that he has two daughters and two sons. This shows that the claim of the applicant that it was his daughter who was found in the house at the time of inspection cannot be accepted.

10. It is well settled law that this court while exercising the powers of judicial review cannot act as an appellate court or substitute its decision for that of the competent authority. The Tribunal cannot also interfere unless the action of the competent authority is vitiated by arbitrariness, unfairness, illegality or irrationality and the decision is such as no reasonable person on proper application of mind could take or there has been procedural impropriety and violation of law and

principles of natural justice. None of these grounds exist in this case, as the competent authority has sufficient material before them to come to the conclusion that the applicant had unauthorisedly sublet the house. In this regard, the judgement of the Supreme Court in H.B. Gandhi, Excise and Taxation Officer-cum-Assessing Authority, Karnal and Ors Vs. M/s. Gopi Nath and Sons and Ors (1992 Supp.(2) SCC 312) may be seen in which the court held as under -

"Judicial review, it is trite, is not directed against the decision but is confined to the decision making process. Judicial review cannot extend to the examination of the correctness or reasonableness of a decision as a matter of fact. The purpose of judicial review is to ensure that the individual receives fair treatment and not to ensure that the authority after according fair treatment reaches, on a matter which it is authorised by law to decide, a conclusion which is correct in the eyes of the Court. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. It will be erroneous to think that the Court sits in judgement not only on the correctness of the decision making process but also on the correctness of the decision itself." (emphasis supplied)

(See ^{also} UOI Vs. Parma Nanda - AIR 1989 SC 1185, Upendra Singh Vs. UOI - JT (1994) (1) SC 658 and Tata Cellular Vs. UOI - (1994) 6 SCC 651).

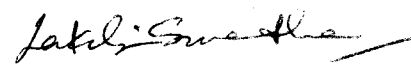
In the garb of judicial review this Tribunal is precluded for that from substituting its decision of the competent authority or to act as an appellate court but it certainly can ensure that the decision making process has been properly done in accordance with the statutory rules and provisions.

11. On perusal of the facts in this case it is apparent that the applicant has been afforded all reasonable opportunity to put forward his case before the competent authority ~~which~~^{has} had passed the impugned orders. Having regard to the aforesaid judgements of the Supreme Court and the facts in this case, I see no good ground to interfere in the matter, as the decision arrived at by the competent authority is neither arbitrary or perverse which justifies any interference. This is not case of no evidence and it is for the competent authority to arrive at a decision based on the facts placed before it and not for this Tribunal to substitute its reasoning or decision for that of the competent authority.

12. ^{learned} Shri George Parackal, ^{counsel} for the applicant has also strenuously urged that under section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, apart from the show cause notice which was issued to the applicant who was the allottee of the quarter, it was also incumbent on the Estate Officer to issue a show cause notice to the alleged unlawful occupants, namely Shri Banwari Lal and his family who were found in ^{the} the quarter. I am unable to agree with this argument. The show

cause notice which has been issued to the applicant,
to enable him to give his reasons, was sufficient compliance
of the provisions of law and no separate notice had to
be issued to the unlawful occupants who are also not
before us. In the circumstances, this argument is
rejected.

13. For the reasons given above, I find no merit
in this application. The application is accordingly
dismissed. No costs.


(SMT. LAKSHMI SWAMINATHAN)
MEMBER(J)

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