

(8)

Central Administrative Tribunal  
Principal Bench, New Delhi.

OA-637/95

New Delhi this the 30<sup>th</sup> Day of October, 1995.

Hon'ble Sh. B.K. Singh, Member(A)

Sh. Narender Singh Rawat,  
S/o Sh. Chandan Singh,  
R/o 11/124, Panchkuin Road,  
New Delhi.

Applicant

(through Sh. B. Krishan, advocate)

versus

1. Union of India,  
through the Director of Estates,  
Directorate of Estates,  
4th Floor 'C' Wing,  
Nirman Bhavan,  
New Delhi.

2. The Estate Officer,  
(Sh. P.M. Mishra),  
Directorate of Estates,  
4th Floor 'B' Wing,  
Nirman Bhavan, New Delhi.

Respondents

(through Sh. M.K. Gupta, advocate)

ORDER

Delivered by Hon'ble Sh. B.K. Singh, Member(A)

This O.A.No.637/95 is directed against order dated 21.3.95 (Annexure A-1) and order dated 19.1.90 (Annexure A-2).

The Estate Officer after affording full opportunity to the applicant for hearing the case, finally issued the notice on 21.3.95 and published the same for vacation of the quarter of which he was declared as unauthorised occupant having sub-let the same to another person Sh. Ram Singh aged about 40 years. On 2.9.89, inspection was carried out and

D

Sh. Ram Singh and two of his sons were found living there. Sh. Ram Singh was working as labourer and during the course of the inspection, the allottee Sh. Narendra Singh Rawat was absent. Sh. Ram Singh stated that Sh. Rawat had gone to bring kerosene oil from Fair Price Shop. After eviction orders were passed originally, the applicant approached the designated appellate court i.e. Additional District Judge of Delhi vide PPA No.81/90 and the judgement was given in that on 6.11.90. There was some procedural lapse and the learned A.D.J. allowed the appeal and remanded the matter back to the learned Estate Officer for deciding the matter in accordance with law, after giving proper opportunity to the applicant of being heard alongwith Sh. Ram Singh & Ors. The parties were directed to appear before the learned Estate Officer on 29.11.90. A copy of the judgement was also sent to the Estate Officer for his information and necessary action.

In the light of the observations made by learned A.D.J., the matter was reopened and due opportunity was given to the applicant to make his submissions. During the course of arguments, <sup>it was pointed out that</sup> the learned Estate Officer did not take into consideration the various materials filed by the applicant. The documents produced contained the ration card, C.G.R.S. card, various postal receipts and registered letters received by the applicant. He has also produced the certificates of the Fair Price Shop Dealer. He has also got gas connection from Bharatgas Company in January, 1985 and the same connection is available

B



at his residence. The various letters received and the various prescriptions as out-door patient have been issued on the address of this quarter. There are documents filed by the neighbours to the effect that he is a bona fide resident of the quarter. The Central Bank Account No. also has the same address and the insurance premium receipts also show the same number of the house. All these are vital documents and inspite of my best efforts, I do not find discussion of the various documents produced by the applicant before the Estate Officer. At the time of inspection also it was clearly stated that the applicant had gone to collect kerosene oil from the Fair Price Shop. There is an over-whelming evidence to show that the applicant resides in the quarter allotted to him.

After going through the records and after hearing the rival contentions of the parties, it is clear that the applicant is a bona fide resident of the quarter allotted to him and cannot be declared as one who had sub-let the same to anyone else. During the course of arguments, the learned counsel for the respondents fairly conceded that the evidence produced before the Estate Officer has not been considered and appreciated and there appears to be non-application of mind on the part of the competent authority. The Estate Officer is a quasi judicial officer and he has to pass orders based on materials placed before him with proper application of mind and only such orders can in judicial review escape judicial invalidation. I do not find any reasoned order whatsoever passed by the Estate Officer although the matter was remanded to him on account of non-observance of the principles of natural justice by the learned A.D.J. Thus in judicial review under Article 226 of the Constitution, I find that neither the principles

11

of natural justice have been observed nor has the competent authority applied his mind to the various documents and materials produced before him. He has passed eviction order in a mechanical fashion. The eviction order to say the least is not based on the documents and evidence available on record. Therefore, such a non-speaking order cannot be sustained in the eyes of law. The two impugned orders are quashed and set aside and the applicant is declared a bona fide resident of the quarter which has been allotted to him. The charges in the light of the various documents and over-whelming evidence on record do not stand the test of scrutiny. With these observations, the O.A. is disposed of finally but without any order as to costs.

  
(B.K. SINGH)  
MEMBER (A)

/vv/