

TO THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

Case No. 1292/96

(3)

Date of decision 31.10.1996

Shri Rakesh Sharma

... Petitioner

Shri B.Krishan

... Advocate for the Petitioner

Opposed

Secretary, President's
Sectt, Rashtrapati Bhawan
& Estab Officer

... Respondent

Shri Madan Lokur

... Advocate for the
Respondent

Order

Hon'ble Shri.Lakshmi Guaminathan, Barrister (3)

1. To be referred to the Reporter or not ?
2. Whether it needs to be circulated to other
Benches of the Tribunal ?

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(Shri.Lakshmi Guaminathan)
Barrister (3)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1292/1996

New Delhi, this 31st day of October, 1996

Hon'ble Mrs. Lakshmi Swaminathan, Member(J)

Shri Rakesh Sharma
37, Kali Bari Apartments
Udyam Marg, New Delhi ... Applicant

(By Shri B. Krishan, Advocate)

versus

1. Secretary
President's Secretariat, Rashtrapati Bhavan
New Delhi
2. The Estate Officer
President's Secretariat, Rashtrapati Bhavan
New Delhi .. Respondents

(By Shri Madan Lokur, Advocate)

ORDER(oral)

The applicant is aggrieved by the order dated 23.5.96 passed by the respondents in which it is mentioned that because he has violated provisions of Rule 16(a) of the Allotment of Residential Accommodation in the President's Estate Rules (hereinafter called the rules), he has been asked to vacate the premises earlier allotted to him in terms of Rule 16(b) of the aforesaid rules within 15 days from the date of issue of the order.

2. By the interim order dated 11.6.96, operation of this order has been stayed which has been continued till date.

3. The main ground taken by the learned counsel for the applicant is that the eviction order dated 23.5.96 is bad in law as no show cause notice has been given to him and the principles of natural justice have been violated. On the other hand, the learned counsel for

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the respondents has submitted that the allotment of the quarter to the applicant in the President's estate is in the nature of a licensee and no right accrues to him as either tenant or lessee, as provided in Rules 2 and 3 of the rules. He, therefore, submits that action taken by the Military Secretary to the President (MSP in short) under Rule 16(a) and (b) does not require any show cause notice to be issued. However, he admits that a show cause has been issued under section 4 of Public Premises (Eviction of Unauthorised Occupants) Act, 1971 on 12.6.1996 to show cause why an order of eviction should not be passed. In reply to this notice, the learned counsel for the applicant has submitted that the applicant has not given a detailed reply as the matter is subjudice before this Tribunal.

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4. I have carefully considered the material on record and the submissions made by the learned counsel for the parties.

5. Rule 2 of the rules provides that allotment of residential accommodation in the President's Estate is done at the discretion of the President exercised through the authorities designated by him in this regard. Rule 3 provides that allottees are only licencees and no rights shall accrue to them as either tenants or lessees or of any other nature. Rule 16(b) of the rules empowers the MSP to take action if he finds any violation of the provisions contained in Rule 15(a) and to require him to vacate the premises occupied by him, to declare the allottee to be ineligible for a residence during a specified period, and to remove any

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unauthorised structure and make good any damage caused to the premises at his own cost. Rule 39(1)(b) provides for cancellation of allotment of the quarter by the MSP.

(16)

6. In the facts and circumstances of the case, having regard to the provisions of Rules 16 and 39 of the rules and the judgement of the Supreme Court in Maneka Gandhi Vs. UOI & Ors. (AIR 1975 SC 153) I am of the view that the MSP cannot proceed to cancel the allotment of the quarter without complying with the principles of natural justice and also that the impugned order dated 23.5.1986 is not a speaking order.

7. In view of the above, the impugned orders dated 23.5.96 and 8.7.96 are quashed and set aside. The case is remitted to the MSP to pass a reasoned and speaking order after affording a reasonable opportunity of being heard to the applicant.

8. The OA is disposed of as above. No order as to costs.

Lakshmi Swaminathan

(Mrs. Lakshmi Swaminathan)
Member(J)
31.10.1996

/gtv/