

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

HON. SHRI R.K. AHOOJA, MEMBER (A)

NEW DELHI, THIS ~~16~~ DAY OF JUNE 1997.

DA NO. 2603/96

(9)

1. SHRI GIRDHARI LAL  
S/o Sh. Genda Lal  
Quarter No. 934  
Sector VII, R.K. Puram  
NEW DELHI

Working as Junior Intelligence  
Officer Gr. II (MT)  
Intelligence Bureau  
M/o Home Affairs  
North Block, New Delhi.

...APPLICANTS

(By Advocate - Shri B.B. Raval)

VERSUS

1. UOI through its Secretary  
M/o Home Affairs  
North Block  
NEW DELHI

2. The Director  
Intelligence Bureau  
M/o Home Affairs  
NEW DELHI.

3. The Director  
Dte. of Estates  
Nirman Bhawan  
NEW DELHI

...RESPONDENTS

(By Advocate - Shri R.P. Aggarwal)

ORDER

*Lever 3*  
The applicant is aggrieved by the order A-1 issued by the Estate Officer asking him to show cause as to why an order of eviction should not be made against him on the ground of his unauthorised occupation of quarter No. 934, R.K. Puram, New Delhi.

2. The case of the applicant is that the said quarter was allotted to him in 1988 and since then he has been living there along with his family. In March 1996, the house was inspected by an officer of the Directorate of

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Estates and the applicant thereupon showed the necessary proof of occupation, like letter of allotment, ration card, gas connection slip, voters identity card, CGHS card etc. and proved all these documents to be genuine. He was surprised however to receive a Memo dated 18.4.96 (A-1) stating that as a result of the enquiries made, it has been proved that he was not residing in the General Pool residential accommodation allotted to him and had sublet the same to some unauthorised persons. On that account, it was stated that the allotment had been cancelled and the applicant would be charged penal rent and will also be liable to ~~be evict~~ <sup>from</sup> the quarter within 60 days. Since no enquiry report was sent to him nor it was stated how the competent authority had came to the conclusion that the ~~was~~ house was sublet, the said order is ~~maligned~~ challenged on the ground of arbitrary and colourable exercise of power. An appeal was filed by the applicant on 17.4.96. The Assistant Director of Intelligence Bureau (IB), New Delhi, while forwarding the application also certified in clear and unambiguous terms that the applicant was attached to him and it was in his personal knowledge that he was staying in the house along with his grown up children. Notwithstanding this report from a senior officer like Assistant Director of IB, the impugned order of 4.9.96 ~~based on issue of an eviction order~~ was issued against him. Further proof was also adduced by him, like a letter from the President of the Residents' Welfare Association, telegrams received by him at the address <sup>of</sup> but to no avail. The applicant has come before this Tribunal now praying that the impugned Annexures 'A' & 'B' which are based on arbitrariness and mala fide and extraneous considerations be quashed. The respondents in their reply state that an inspection was carried out on 19.1.1996 by a team of two officials. The team reported that Shri Girdhari Lal, the applicant, was present in the quarter along with one Mr. Bahadur Lal and his family. A copy of the report is annexed as R-1. Subletting was suspected and a notice (R-II) was issued. The applicant was also heard by the Director

11

of Estates on 19.3.96 but during the course of the hearing, the applicant explained that at the time of inspection, his brother Bahadur and his wife, who were residing in Munirka, were present and had come to fetch their children Shalu and Nikki who were studying in a nearby school. He had also explained that his wife and children had gone to his native place as his mother-in-law had died. However, the applicant was unable to state as to the schools in which his own children were studying, though he stated that they were in class VI and class III in a nearby government school. Later, under questioning, he broke down and stated that they were in fact living in his village home in Garhwal. The statement of the applicant has also been annexed as R-3. After the allotment was cancelled, he was told that he could prefer appeal/representation through proper channel within a period of 60 days but the same having not been received during the stipulated period was rejected and the impugned orders passed.

3. In his rejoinder, the applicant denies that shri Bahadur Lal and his family were present. He admits however that the name of Bahadur Lal came up because the visiting officers had expressly asked whether he gets any visitors to his place to which he had replied that he had a cousin by the name Bahadur Lal who was a frequent visitor. On being asked, the applicant also gave the names of family members of Shri Bahadur Lal.

4. I have heard the counsel on both sides and also gone through the records. The respondents admit that when the inspection team visited, they found the applicant present there. Copy of the inspection report R-1 also mentions that the applicant's identity card number and also shows that the applicant produced the ration card, CGHS card etc. In view of this conclusion of the inspecting officers that subletting was suspected had to have some basis. Nothing is mentioned in this regard. The respondents in reply state that when the appli-

(12)

Applicant appeared before the deciding authority, he was asked to give the name of school where his children were studying whereupon he broke down and stated that they were in fact in his home village Garhwal. R-3 has been annexed by way of corroboratory evidence that such a statement was made. However, this is only the order of the deciding authority and not a statement given by the applicant. The applicant has produced the certificate from the President of the Resident's Welfare Association and what is more, the Assistant Director of IB with whom the applicant has been working has also given in writing that the applicant is staying at the premises allotted to him and that whenever he has to be called in an emergency he is sent for at his official address. If the allegation against the applicant were that he had partially sublet the house or had allowed another family to stay without obtaining permission for sharing the accommodation, there would have been a different case. However, that is not the charge and the whole proceedings have been conducted as if the applicant had fully sublet the premises. For this, the respondents had no evidence whatsoever except the alleged admission of the applicant before the deciding authority for which no documentary evidence has been shown. The order of cancellation of allotment can, in the circumstances, be regarded as perverse and is liable to be quashed. I order accordingly.

5. In the light of the above discussion, the O.A. is allowed. The impugned order A-1 for cancellation of allotment and penal rent is set aside. No order as to costs.

R.K. AHOOT

~~R.K. AHOOT~~  
MEMBER (A)

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