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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.

Date of Decision : 23.09.92

QA 617/92

GANGA RAM

... APPLICANT.

Vs.

UNION OF INDIA & ANR.

... RESPONDENTS.

CORAM:

THE HON'BLE SHRI J.P. SHARMA, MEMBER (J).

For the Applicant

... SHRI R.L. SETHI.

For the Respondents

... SHRI ASHOK KASHYAP.

1. Whether Reporters of local papers may be allowed to see the Judgement ? yes
2. To be referred to the Reporters or not ? yes

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J).)

Shri Ganga Ram, employed as Constable in Delhi Police, was allotted a quarter No.FC 8, Type I, P.S. Mandir Marg, New Delhi, and by the impugned order dated 7.1.92 the said allotment has been cancelled. The applicant has the grievance that the said order is arbitrary and that there has been no subletting of the said quarter to the alleged person, Shri Surjeet Singh, and therefore he has prayed that the said order dated 3/7.1.92 be quashed.

The matter was taken on earlier sitting of this Bench on 21.9.92 and after hearing the parties finally at the admission stage itself the applicant was directed to produce the original Ration Card as the photo-copy of the

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Ration Card annexed with the Original Application did not disclose any date of its issue.

The arguments commenced today and the original Ration Card was shown to the Bench as well as to the learned counsel for the respondents.

The case of the applicant is that he has not sublet the allotted premises to Surjit Singh, he is the son of his friend, retired Head Constable Mehar Singh, and an inquiry which has been conducted in his absence having found Surjit Singh in the premises could not by itself show that the said premises has been sublet. The said Surjit Singh has his own house No.4/160, Lalita Park, Shakarpur, Delhi.

The learned counsel for the respondents argued that the mere filing of a Ration Card could not by itself show that the applicant has such a large family having 9 members who are actually and factually residing in the said premises. The applicant has admitted having acquaintance/ intimacy with said Surjit Singh then a burden lies on the applicant to show that he is not the actual occupant i.e. subtenant of the said allotted premises.

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The learned counsel for the respondents also argued that the theory of Ration Card appears to be an after thought as there is no mention of the Ration Card at given address either in the reply to the show cause notice or an appeal preferred departmentally by the applicant against the impugned order of cancellation of allotment.

I have heard the learned counsel for the parties at greater length even today and have taken into account the various averments made in the application and reply thereto in the counter. I have also seen, as passed for perusal by the learned counsel for the respondents, the report of some vigilance inquiry against one Suresh Bichhani.

Basically when a show cause notice is issued to a delinquent person and reply is filed denying the various averments and allegations made in that notice, the notice given has to see that those averments or allegations in the said reply are effectively dealt with by a speaking order while confirming that show cause notice. Notice given has also has to see that the principles of natural justice are duly complied with even in administrative orders where the effect is to condemn a person for an act even in his personal life apart from the professional duties. In the present case, though the evidence furnished by the learned counsel for the applicant in

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support of the averments made a reply to the show cause notice were found deficient by the departmental authorities but at the same time the department itself has nothing to show that the said premises have been let out to Shri Surjeet Singh aforesaid. In the reply there is a mention of an inquiry but during the course of the arguments it appears that there was no inquiry against the applicant but a officer deputed by the vigilance for an

inquiry against one Shri Suresh Bachhani then this fact came to notice that in quarter No. FC 8 Mandir Marg, allotted to the applicant one Shri Surjeet Singh is carrying of his work as Motor mechanic. To my mind, in a incidental proceeding a reference to a third person cannot be said to basis to condemn him. It was the duty of the respondents to register an inquiry against the applicant as they have rightly done in the case of Suresh Bachhani and then on the basis of that inquiry by a responsible officer should have acted on the findings of that inquiry. Thus, the issue of show cause notice by itself cannot be justified and shall be totally arbitrary and against the accepted norms of doing fair justice.

Though it is a fact that the Ration Card pertains to the year 1988 onwards of the applicant and that has not been mentioned in the reply to show cause

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notice or as a ground in the grounds of appeal against the impugned order preferred departmentally but it cannot be said to be not bonafide. The various entries in the Ration Card go to show that the person in his name the Ration Card is existing has been using the same and getting benefit out of that.

The learned counsel for the applicant also argued that the family of the applicant concerned of 9 persons and this is type I, i.e. one room quarter and by no sense of adjustment of these 9 persons alongwith one stranger can conveniently use and occupy single room accommodation. The act is believed on the common course of behavior of human beings. When tested on this anvil the arguments of the learned counsel for the applicant has greater force.

The learned counsel for the applicant has also referred to the fact that Surjeet Singh is already named in the Ration Card issued in the name of the head of the family Gurnam Kaur. Thus, the applicant has shown that Surjeet Singh is normally residing in Lalita Park, Laxmi Nagar, at which address his name in the Ration Card of Gurnam Kaur. This Ration Card was duly submitted to the respondents at the time the reply was furnished to the show cause notice by the applicant. The impugned order does not show that how this evidence has been considered

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and sufficient to hold that Surjeet Singh is not residing in Laxmi Nagar at which address the Ration Card has been issued in his name.

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Taking all these facts into account I find ~~no~~ force in the application and the impugned order therefore cannot be sustained.

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The application is allowed and the impugned order dated 3/7.1.92 is set aside and quashed and the applicant shall be treated as lawful occupant and shall continue to occupy the same unless the respondents treat him ^{un}authorised on account of any other act of omission and commission done by the applicant henceforth. Costs on parties.

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(J.P. SHARMA)
MEMBER (J) 23.9.92
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