

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 1083/1999

DATE OF DECISION: 26/04/2001

Shri R.P.Phalke

Applicant

Shri U.Rudra

-----Advocate for
Applicant.

Versus

Union of India & Anr.

-----Respondents.

Shri R.K.Shetty

-----Respondents.

Coram:

Hon'ble Smt. Shanta Shastry, Member (A).

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

Shanta F

(SHANTA SHAstry)
MEMBER(A)

abp

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:1083/1999
DATED THE 26th DAY OF APRIL 2001**

CORAM: HON'BLE SMT.SHANTA SHAstry, MEMBER(A)

Shri R.P.Phalke,
r/o.Q.No.9/75/3,
Defence Project, Ambazari,
Nagpur - 23.

... Applicant

V/s.

1. Union of India, through the
Director General, Ordnance Factory,
10-A Shahid Khudiram Bose Road,
Calcutta- 700 001.

2. The General Manager,
Ordnance Factory, Ambazari,
Nagpur - 21. ... Respondents

By Advocate Shri R.K.Shetty

(ORAL) (ORDER)

Per Smt.Shanta Shastry, Member(A)

None for the applicant either in person or through the advocate. Shri R.R.Shetty for Shri R.K.Shetty for Respondents.

Since the applicant is not present even on second call, I am proceeding to dispose of the OA ex parte in terms of Rule 15 of the CAT Procedure Rules.

2. The applicant has filed this OA challenging the order dated 11/10/99 passed by the respondents whereby the applicant was given one month's notice to vacate the official quarter type-I allotted to the applicant. It was further stated that in case the quarter is not vacated action would be taken under the Public Premises (Eviction of Unauthorised Occupants) Act 1971.

...2.

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The applicant is an employee of the Ordnance Factory, Ambazari and was allotted quarter No.8/97/4 situated at Ordnance Factory Estate, Ambazari, Nagpur. He was issued the aforesaid impugned order of cancellation of allotment of quarter on the allegation that his dependent son was a nuisance as he entered other Government quarters at the point of dangerous weapons like swords. It is the contention of the applicant that the impugned order has been passed without giving any opportunity of hearing and also supplying the relevant documents. Similarly, another impugned order dated 3/1/98 was issued without observing the principles of natural justice. The applicant has also been charged penal rent. The applicant has already submitted to the respondents that his son was falsely implicated and a false complaint had been made against him in the police station. It was obligatory on the part of respondents to conduct an enquiry, ^{hearing} seeking both the sides and giving every opportunity for cross examination of the complainant. However, the respondents failed to observe the principles of natural justice in the matter. He has therefore prayed to quash and set aside the impugned order dated 11/10/99.

3. The learned counsel for the respondents submits that the action of the respondents is in keeping with the relevant orders i.e. SRO 57 issued in April,93. According to this order if an officer to whom accommodation is allotted by the Government, indulges in misconduct, then the accommodation is liable to be cancelled. The Definition of an 'officer' includes his son also. In the present case, ^{the} son of ^{the} applicant indulged in criminal

activities and therefore the respondents were justified in cancelling the allotment of the applicant. The SRO is under Article 309 of the Constitution and therefore has the force of statutory rules. Para-24 of these rules clearly states the circumstances under which the allotment can't be cancelled. One of them is where an officer conducts himself in a manner which in his opinion is prejudicial to the maintenance of harmonious relations with the neighbours. Since the applicant's son had involved himself in breaking window panes, etc, of the neighbours residences, this behaviour was prejudicial to the maintenance of harmonious relations with the neighbours and therefore para-24 is attracted in this case.

4. The learned counsel for the respondents submits that a regular FIR has been filed in the local police station and a crime No.84 under section 452, 427 of the IPC read with section 4/25 of Arms Act is Registered in the Police Station Wadi and charge sheet No.5/2000 has been filed on 14/1/2000. The criminal case no.1/2000 has been registered against Shri Vinod R Phalke i.e. son of applicant on 17/1/2000 and the matter is subjudice. This is as per the report of Impugned order dated 23/3/2001 and the English Translation of original letter shown by learned counsel for respondents today during the course of hearing. It is therefore clear that a criminal proceeding has been initiated against the applicant's son.

5. Since the allotment of accommodation is Governed by the SRO-57, the respondent's action appears justified in cancelling the allotment.

6. The learned counsel for the respondents further submits that a notice under Section-4 of the Public Premises Act (Eviction of Unauthorised Occupants) Act 1971 has also recently been issued on 3/4/2001. This Tribunal had ordered by way of ad interim relief that applicant should not be dispossessed from quarters in question except in due course of law and further the respondents should not collect any penal rent from the applicant in pursuance of the impugned order dated 11/10/1999. This was dated 24/12/1999. Respondents have now acted in due course of law and have issued an eviction notice under Public Premises Act. In view of this on merits ~~also~~ the applicant has no case. Therefore, the OA is liable to be dismissed. Further since action has now been initiated under the Public Premises Act, this Tribunal has no jurisdiction. It is already held by the Hon. Supreme Court in the case of Rasila Ram that once action has been initiated under the Public Premises Act, this Tribunal cannot interfere with the same. The learned counsel for respondents has also stated in their judgement of P.K.Raj V/s. Western Railway in OA-140/99 rendered on 7/6/2000 holding that the Tribunal loses jurisdiction once proceedings have been initiated in the Public Premises Act.

7. Therefore both on merits as well as on the point of jurisdiction, the OA is dismissed. I do not order any costs.

Shanta Shastray
(SHANTA SHAstry)
MEMBER(A)