

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A/T.A No. 12/96
R.A/C.P No.
E.P/M.A No.

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SECTION OFFICER (Judl.)

Shahid
23.1.18

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN.NO. 12 OF 1995
 TRANSFER APPLN.NO. OF 1995
 CONTEMPT APPLN.NO. OF 1995 (IN NO.)
 REVIEW APPLN.NO. OF 1995 (IN NO.)
 MISCELLANEOUS PETITION NO. OF 1995 (IN NO.)

J. B. Marbaniang APPLICANT(S)

-VS-

h. O. I. RESPONDENT(S)

For the Applicant(s)

Mr. P.K. Boruah

Mr. P.D. Gogoi ✓

Mr.

Mr.

For the Respondent(s)

Mr. *g. Sarma, Add. Cst.*

OFFICE NOTE

DATE

ORDER

Application is for
 and within time
 F. of Rs. 50/-
 deposited vide
 PO/BD No. 311321
 Dated 12.1.96

19.1.96

Unlisted application moved by
 learned counsel Mr P.D.Gogoi on behalf
 of applicant Shri J.B.Marbaniang, Office
 Superintendent(C), North Eastern Circle
 Office, Survey of India, Shillong. In
 this application the applicant has
 impugned the following orders namely,
 (1) No.A-9339/13-A-I/C dated 8.12.95
 (Annexure-A), (2) No.A 9479/13A-I/C
 dated 8.12.95 (Annexure-C) and (3) No-A-
 9135/13-A-I/C dated 26/28.12.95 (Annexure-
 F). The applicant has been directed by
 the respondents to vacate the quarter
 No.C-10 in Survey of India Estate,
 Shillong allotted to him within 7.2.96
 and to pay licence fee @ Rs.568/-per
 month with effect from 4.2.93. The
 applicant has based this application on
 two grounds, namely (1) that there is
 no subletting of the quarter as according
 to Khasi customary law a married daugh-
 ter, can reside with her parents along-
 with her husband and (2) that under
 the Explanation to sub-rule (1) of S.R.
 317-AH-2 of the allotment of Government

22/8
 copy of final
 order issued to the
 parties Advocates
 vide J.N. 22546
 27.8.96

OFFICE NOTE

DATE

ORDER

19.1.96

Residence in the Survey of India Estate Rules, 1987 sharing of residence with close relative does not amount to sub-letting.

None is present for the respondents. Perused the application. Issue notice to the respondents to show cause as to why the application should not be admitted and the relief sought for granted. List on 2.2.1996 for consideration of admission.

Heard learned counsel of the applicant on the interim relief prayer. Issue notice on the respondents to show cause as to why the operation of the impugned orders at Annexures A, C and F respectively aforesaid should not be stayed. Returnable on 2.2.96. Pending disposal of the show on interim prayer the operation of the aforesaid orders are stayed. List on 2.2.96 for consideration of show cause and interim order.

Member

19.1.96

pg

2.2.96

Learned counsel Mr P.D.Gogoi with Mr P.K.Barua for the applicant and learned Addl.C.G.S.C Mr G.Sarma for the respondents

Mr Gogoi, learned counsel for the applicant, submits that the applicant desires to withdraw this application. Permission granted.

Application is disposed of on withdrawal. Stay order vacated. No order as to costs.

Member

2.2.96

pg

Submitted to counsel on further

Steps yet to be received.

order issued to applicant & respondents on 24.2.96

29.1.96

FAA on 14.2.96

By order
Prav

31.1.96

As per Honble Member instruction this case may be listed on 2.2.96 instead of 14.2.96

information to be given to the applicant Advocate and Respondents C.G.S.C

adv.
Bov

issued

O.A No. 12/96

I N D E X

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APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNAL , 1985 .

For use in Tribunal's Office.

DATE OF FILLING :-

OR

DATE OF RECEIPT :-

BY POST .

REGISTRATION NO :-

SIGNATURE

REGISTRAR.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, Guwahati

BENCH . GUWAHATI

BETWEEN

Sri J.B.Marbaniang ... Applicant

-AND-

Director , N.E.Circle,

Survey of India , Shillong.

Representing Union of India. ... Respondent.

1. Particulars of the applicant

(i) Name of the Applicant :- Shri John Bosco Marbaniang

(ii) Name of Father : Late S.Diengdoh

(iii) Designation and Office:- Office Superintendent (C)

to which employed

North Eastern Circle

Office, Survey of India

Post Box No 89, Shillong

Meghalaya, Pin- 793001

Recd Copy
Golap Janna
Add CGSC
CAT
Guwahati
18/1/96

contd .. 2

Filed by
Opant
(P.K. Basu)
Advocate

(iv) Office Address

:- Office Superintendent (C)

North Eastern Circle Office

Survey of India . Post Box No 89

Meghalaya , Shillong

Pin- 793001

(v) Address for service

:- Office Superintendent (C)

of all notices.

North Eastern Circle Office

Survey of India ,

Post Box No 89 , Shillong

Meghalaya, Pin- 793001

2. Particulars of the Respon-:-

dent .

(i) Name and designation :- Shri P.K.Gupta ,

of the Respondent.

Brigadier, Director,

North Eastern Circle ,

Survey of India .

Post Box No 89, Shillong

Meghalaya, Pin- 793001

(ii) Office address of

the respondent

:- Shri P.K.Gupta, Brigadier.

Director, North Eastern

Circle, Survey of India.

Post Box No 89, Shillong

Meghalaya, Pin- 793001

(iii) Address for service

of all notices

: Shri P.K.Gupta, Brigadier.

Director, North Eastern

Circle, Survey of India.

Post Box No.89, Shillong

John Bosco Marbaniang

John Buzzeo

John

John

(ii) A- 9479/13 -A-1/c dated 8.12.1995, passed by Shri P.K.Gupta ,Brigadier, Director, North Eastern Circle and Estate Officer, Survey of India , Shillong directing the applicant to hand/over the vacant premises within two months from the date of issue of the order i.e by 7th February ,1996.

3. A. 9135/13-A-I/C dated 26/28-12-1995, passed by Shri P.K.Gupta, Brigadier, Director, North Eastern Circle, rejecting the review petition (appeal) of the applicant and cancelling the allotment of Govt. residence No. C-10 in survey of India Estate, Shillong and directing the applicant to hand over the vacant premises within two months from the date of his office letter No.A.9429/13-A-I/C dt 8.12.1995 and directing recovery of enhanced licence fee as per orders issued in his office No.A-9339/13-A-I/C dt 06.12.95.

4. Jurisdiction of the Tribunal .

The applicant declares , that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

5. Limitation .

The applicant further declares that the application is within the limitation prescribed in section 21 of the Administration Tribunal Act, 1985.

6. Facts of the case :- (i) That the humble applicant is the Office Superintendent (C) in the Office of the Survey of India, North Eastern Circle, Shillong, Meghalaya. He was allotted Government Residence No.C/4 in the Survey of India Estate, Shillong and occupied the said Government resident on 4.2.1993 and subsequently changed to Govt. Residence No.-C-10 in the said survey of India Estate, Shillong Meghalaya and since then the applicant has been in occupation of the allotted Govt. Residence uninterrupted .

(ii) That the Director North Eastern Circle of the Survey of India by Memo bearing No. A-9339/13-A-I/C dated 6 th December, 1995 alleged that applicant has unauthorisedly sub-let the Govt. residence No C-10 and gave the applicant an opportunity of being heard in person by 8.12.1995, but as a penalty enhanced the licence fee of the Govt. accommodation to four times the standard licence fee w.e.f 4.2.93.

A copy of the said Memo is enclosed as Annexure -A.

John Bosco Harbomang.

(iii) That the applicant, being highly aggrieved by the allegation of subletting ~~made~~ by the Director N.E. Circle and enhancement of the licence fee to four times standard licence fee, ~~has~~ submitted a petition to the Director, N.E. Circle in the form of an appeal to treat the applicant's married daughter and her husband as family members of the applicant, as according to Khasi customary law, married, daughter also lives with her parents as family members and the parents have full responsibility to maintain them as other members of family in case the husband is unemployed and therefore to exempt him from payment of enhanced licence fee for the allotted Govt. accommodation .

A copy of the said petition is enclosed
as Annexure - B

4. That the applicant was given a personal hearing by the Director N.E. Circle on 8.12.1995 at 1600 Hours and during the personal hearing the applicant explained the circumstances and reasons of staying of the applicant's married daughter and her husband with the applicant in the said allotted Govt. residence but in spite of that the Director by his Memo No. A-9479/13-A-I/C dated 8.12.1995 ordered the applicant to hand over the vacant premises within two months from the date of issue of the said order i.e by 7th February, 1996.

A copy of the said memo is enclosed as Annexure-C

From Office Harbansingh

Tamara Harbany

5. That the applicant submitted a representation dated 18.12.95 in the form of an appeal to the Director N.E. Circle against the cancellation of the Govt. accommodation with reference to the Memo No .A-9339/13-A-I/C dated 6.12.95 and No A-9479/13-A I/C dated 8.12.1995 of the Director , N.E. Circle enclosing a copy of the affidavit sworn by the applicant before the Chief Judicial Magistrate , Shillong.

A copy of the said representation dated 18.12.95 is enclosed as Annexure - D.

A copy of the said Affidavit is enclosed as Annexure - E

6. That the Director, N.E. Circle by his Memo No. A-9135/13-A-I/C dated 26/28-12-95 informed the applicant that the applicant's married daughter cannot be treated as dependent and ~~father~~^{further} alleged that the applicant has not been staying in the allotted Govt. accommodation besides other things and directed the applicant to hand over the vacant premises within two months from 8.12.1995 and confirmed the enhanced licence fee as penalty.

A copy of the said Memo is enclosed as Annexure - F.

7. Reliefs Sought

In view of the facts mentioned in para 6 above , the applicant prays for the following reliefs :-

Tdm Poozo Marbunang

1. Setting aside and quashing orders communicated vide Memo No.A-9339/13-A-I/C dated 6.12.95 (Annexure -A) of the Director N.E.Circle , survey of India , Shillong alleging that the applicant has sub-let the Govt. residence allotted to the applicant and enhancing the licence fee of Rs 142.00 per month to 4 times that rate to Rs 568/- per month as a penal measure.
2. Setting aside and quashing orders communicated vide Memo No A-9479/13-A-1/C dated 8.12.1995 (Annexure -C) of the Director , N.E.Circle , Shillong directing the applicant to hand over the vacant premises within two months from the date of issue of this order, i.e by 7th February,1996 .
3. Setting aside and quashing orders communicated vide Memo No. A-9135/13-A-I/C dated 26/28-12-1995 (Annexure -F) of the Director, N.E. Circle rejecting the applicant's representation (appeal) and directing the applicant to handover the vacant premises within two months from the date of issue of his office letter No.A-9479/13-A-I/C dt 8.12.95 (Annexure -C)
4. An interim order directing the Director , N.E. Circle, survey of India , Shillong to allow the applicant to continue to occupy the Govt. residence No.C-10 allotted to him and to pay ~~and~~ the standard fee pending final decision of the Hon'ble Tribunal on the application filed by the applicant the reliefs are sought on the following grounds:-

(i) The applicant has been residing at the allotted Government accommodation, first in residence No-14 and thereafter ~~on~~ residence No-10 uninterruptedly and the applicant's married daughter and her unemployed husband lived with them, applicant in the said Govt. residence No-10 as members of the applicant's family and not as a separate independent family and as such the allegation of sub-letting the said Government accommodation is without merit.

John Borge Marbaning

(2) According to khasi customary ~~law~~ the parents are bound to take care of a married daughter with her husband, if the husband is unemployed, and therefore, there is nothing wrong in accommodating the applicant's married daughter with her unemployed husband in the allotted Government residence of the applicant in the survey of India Estate, Shillong in accordance with the Khasi Customary law and as such the allegation of sub-letting the said Government residence to the married daughter and her unemployed husband is not correct.

3. As per explanation under sub-rule (b) of S.R.317-AH-2 of the Allotment of Government Residence in the survey of India Estate Rules, 1987, any sharing of residence with close relations shall not be deemed to be sub-letting and as such, sharing of Govt Residence No-10 in the Survey of India Estate, Shillong by the applicant with his married daughter and her

12. Details of index.

An index in duplicate -containing the details of the documents to be relied upon is enclosed.

13. List of enclosures .

1. Copy of Memo No. A.9339/13-A/I/C dated 6.12.95
2. Copy of the petition dated 8.12.95 to the Director N.E. Circle.
3. Copy of Memo No. A-9479/13-A-I/c dated 8.12.95
4. Copy of revision petition (appeal) dt 18.12.95
5. Copy of Affidavit
6. Copy of Memo No. A.9135/13-A-1/C dt 26/28-12.95

IN VERIFICATION

I , Shri John Bosco, Marbaniang , Son of Late S.Diengdoh, aged about 55 years working as Office Superintendent (C) in the Office of the Director , North Eastern Circle, Survey of India, Shillong, resident of Survey of India Estate, Shillong -793001 Meghalaya . do hereby verify that the contents from 1 to 13 are true to any knowledge and belief and that I have not suppressed any material facts.

Place :- Guwahati

Date - 18.1.96.

John Bosco Marbaniang

Signature of the applicant.

11-
No.A-9339/13-A.I/C

✓
ANNEXURE - A

SURVEY OF INDIA
NORTH EASTERN CIRCLE OFFICE
POST BOX NO 89
SHILLONG - 793 001 (Meghalaya)

Date 5th Dec 1995

To

Shri J.B. Marbanlang,
Office Superintendent (C)
North Eastern Circle Office

Sub:- CANCELLATION OF ALLOTMENT OF GOVT RESIDENCE NO C-10
IN SOI ESTATE, SHILLONG.

It has been found that you have unauthorisedly sublet Govt. residence No. C-10 allotted to you in violation of terms and conditions laid down in SR-317-AH-20(I) of "Allotment of Govt. Residence in the SOI Estate Rules, 1987". Therefore, it is proposed to cancel the allotment of the said Govt. residence. However, you are hereby given an opportunity of being heard in person by 8.12.95

2. In terms of SR-317 -AH(2), license fee @ Rs 568/- p.m. (i.e 4 times the standard license fee of Rs 142/-p.m) is being charged w.e.f. 4.2.1993 (i.e. the date of initial occupation of Qr. No C-14 from where you later changed to C-10)

(P.K.GUPTA) BRIGADIER
DIRECTOR, NORTH EASTERN CIRCLE
AND ESTATE OFFICER SOI ESTATE.

Copy to :- E&AO, NEC. The total amount of arrears to be recovered may please be worked out and recovery action in appropriate instalments from salary will be commenced from the next salary bill together with current licence fee & Rs 568/- till the date of hands over the quarter.

DIRECTOR, NORTH EASTERN CIRCLE

Aushad
J. B. Marbanlang
Advocate

ANNEXURE - B

To

D.N.E.C.
Shillong.

Through Proper Channel

Sub:- Cancellation of Allotment of Govt. Residence
No.C -10 IN SOI ESTATE SHILLONG

Your No. A-9339/13-A-I/C dt. 6.12.95

Respected Sir,

In view of the above referred letter, I beg your kind attention to submit the following few lines for favour of your perusal and favourable action.

That Sir, it is not understodd as ^{how} to you came to the conclusion that I sub~~let~~ my Govt. residence No C-10 in S .O.I Estate, Shillong. In fact, I resides in the said quarter along with part of my family members. As per our khasi custom, daughters and son-in .law can also be treated as family members of concerned parents. Hence my unemployed daughter resides with me along with her unemployed husband and I felt that permission for above family members are not required for which I did not apply for the same.

Therefore , keeping in view the above facts, you are requested to treat my daughter and her husband as my family members and not as a case of subletting . Accordingly, I felt that my case is genuine and I may please be also excempted from en hance licence fee.

Thanking You,

Yours faithfully,

Sd/- 8/12/95
(J.B. MARBANIANG)

Office Superintendent,
NECO, Shillong.

*Attested
by
Advocate*

43-

Annexure -C

N.-A 9479 /13A-I/C

SURVEY OF INDIA
NORTH EASTERN CIRCLE OFFICE
POST BOX NO 89
SHILLONG - 793001 (MEGHALAYA)

Dated the 8 December 1995

To

Shri J.B. Marbaniang
Office Superintendent (C)
North Eastern Circle Office.

Sub:- CANCELLATION OF ALLOTMENT OF GOVT. RESIDENCE
No. C-10 IN SURVEY OF INDIA ESTATE SHILLONG

Ref:- This Office No A-9339/13A-I/C dt 6.12.95

You were heard in person at 1600 hours on 8th December 1995. Since the reasons put across for not residing in the Govt. residence allotted to you and subletting the same to your daughter were not accepted, the allotment of Govt. residence No.C-10 is hereby cancelled.

2. You are hereby directed to hand over the vacant premises within two months from date of issue of this order i.e by 07 th February, 1995

The date of 07th Feb 1995
amended to read as 07th
Feb. 1996 vide DNEC'S No
A-9539/15-A-I/C dt 11.12.95

(P.K.GUPTA) BRIGADIER
DIRECTOR
NORTH EASTERN CIRCLE
AND
ESTATE OFFICER

Copy to ASO/E&AO/Security supervisor (Through
Security Officer) for information and necessary
action.

*Attested
By
Signature*

Annexure - D

To.

D.N.E.C.
Shillong.

Through Proper Channal

Sub:- CANCELLATION OF ALLOTMENT OF GOVT. RESIDENCE NO C-10
IN SO I ESTATE , SHILLONG.

Ref:- 1. Your letter No A-9339/13-A I/C dt 6.12.95 and
2. Your letter No. A-9479/13-A-1/C dt 8.12.95.

Respected Sir,

In continuation of my application dt. 8.12.95 ,
I have the honour to submit herewith an attested photo copy
of an affidavit dt 14.12.95 solemnly sworn by me before
the Chief Judicial Magistrate, Shillong, to support my
statement made in my said application referred to above.

In view of the facts clearly stated in my application
dt 8.12.95 and in the affidavit dt 14.12.95, the allegation
that I have unauthorisely sublet the quarter allotted to me
is non- factual

Under the above stated circumstances, I therefore request
you kindly expunge and generously remove the conditions
stated in your letters under reference and oblige.

Thanking you,

Sgt 18/12/95

(J.B.MARBANIANG)
Office Superintendent,
• NECO, Shillong.

August
1995
Advocate

BEFORE THE CHIEF JUDICIAL MAGISTRATE AT SHILLONG MEGHALAYA.

A F F I D A V I T

I Shri J.B. Marbaniang of Late S. Diengdoh aged about 55 years and resident of quarter C-10 Survey of India Estate Shillong, East Khasi Hills District, Meghalaya do hereby solemnly affirm and declare as follows :-

1. That I am an India citizen and a permanent resident of Meghalaya.
2. That I am working in the Office of the Survey of India, North Eastern Circle, Shillong, as an office Superintendent.
3. That in the year 1993, I was allotted a Government resident No. C 10 at the survey of India Estate, Shillong.
4. That I am personally occupying the said Govt. Quarter along with my ~~father~~ other family members i.e, my married daughter along with her unemployed husband, who are presently dependent on me.
5. That according to our khasi customary law the parents are bound to take care of any of the minor children, married daughter along with their husband, in case he (Husband) is unemployed. In our case only the daughters are bound to stay with their parents even after marriage contrary to hindu household etc. which the sons continue to stay on even after marriage.
6. That I have not sub-let my official quarter to any outsider, but same is occupied by me along with other members of the family.

contd ..

*Attested
Chm
Advocate*

contd ... 2

7. That this affidavit is sworn for the purpose of declaring that I have not sub-let my Govt. residence No C.10 at Burvey of India Estate, Shillong and the said quarter is being occupied by me for my own used.

That the Statements made above are true to my knowledge and belief.

(J B Marbaniang)
DECLARANT:

Solemnly affirmed and declared before me by the above-named Declarant on being Identified by Shri V.G.K. Kynta, Advocate, Shillong this the 14th December 1995.

Identified by

Sd/- G. M. G. K. Kynta
Advocate.

Sd/- G. M. G. K. Kynta
CHIEF JUDICIAL MAGISTRATE

AT SHILLONG.

*Attested
by
Advocate*

- 17 -
No.A-9135/13-A-1/c

Annexure -F

SUREVEY OF INDIA
NORTH EASTERN CIRCLE OFFICE
POST BOX NO 89
SHILLONG -793001 (MEGHALAYA)

Dated the 26/28 December 1995

To,

Shri J.B. Marbaniang
office Superintendent (C)
North Eastern Circle Office
Survey of India , Shillong.

Sub:- CANCELLATION OF APPOINTMENT OF GOVT.RESIDENCE
NO.C-10 IN SURVEY OF INDIA ESTATE, SHILLONG.

Ref:- Your application dated 18.12.1995.

As per terms and conditions laid down in SR-317-AH-2(f), your married daughter cannot be treated as dependant, Moreover, you are not residing yourself in the Govt. residence allotted to you, which was confirmed by your own daughter on two seperate occassions , once to Shri N.Talukdar, Security supervisor on 30.11.1995 and then again to the undersigned on 05.12.1995.

2. Therefore, you are hereby directed to hand over the vacant permises within two months from the date of issue of this office letter No. A-9479/13-A-1/C, dated 08.12.1995. Licence fee also will be recovered as per orders issued vide this office No. A-9339/13-A-1/C dt 06.12.95

(P.K.GUPTA) BRIGADIER
DERECTOR
NORTH EASTERN CIRCLE

Copy to ASO/E&AO/Security Supervisor(through Security Office) for information and necessary action.

Handwritten notes:
AUS
Q. and
Advocate