



**HIGH COURT OF JAMMU AND KASHMIR & LADAKH
AT JAMMU**

CM Nos. 7467/2022 &
7468/2022 in
WP(C) PIL No. 17/2020

Reserved on: 21.12.2022
Pronounced on: 26.12.2022

Prof. S. K. Bhalla

...Appellant(s)

Through :- Mr. K. S. Johal, Sr. Advocate with
Mr. Supreet Singh Johal, Advocate
Mr. S. S. Ahmed, Advocate

v/s

UT of J&K and ors.

.....Respondent (s)

Through :- Mr. Amit Gupta, AAG
Mr. KDS Kotwal, Dy. AG

**Coram: HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE**

CM No. 7467/2022
Rajesh Sekhri-J

ORDER

1. The present application has been preferred by a former Minister, Member of the Parliament and Member of Legislative Assembly of the erstwhile State of J&K, Ch. Lal Singh seeking an injunction against the respondents from evicting him from Government Bungalow No. 2-PWD, Gandhi Nagar, Jammu till Government re-assesses and decides the issue of his security as ordered by this Court on the basis of stand taken by the respondents in the aforesaid Public Interest Litigation (PIL, for short).

2. The case set up by the applicant is that on account of various militants attacks on his life and constant threat perceptions, he was enlisted in the category



of Z-Security of CRPF by the Home Secretary, Ministry of Home Affairs, Government of India. It is allegation of the applicant that persons, who are under threat perception, are occupying Government accommodations, but a departure has been made in his case and Government has taken a different view, due to political rivalry and because of the reason that he is a political opponent of the present dispensation at the Centre and in the Union Territory.

3. It is case of the applicant that proceedings under the J&K Public Premises (Eviction of Unauthorized occupants) Act, 1988 (for short Public Premises Act) were initiated against him. He assailed the said proceedings and preferred a writ petition bearing WP(C) No. 2443 of 2022. The said writ petition came to be dismissed as withdrawn by learned Single Bench of this Court vide order dated 15.11.2022. However, applicant was given six weeks time to vacate the Government accommodation in question.

4. It is further case of the applicant that after the pronouncement of aforesaid order, he has come to know that in the present PIL the Government of India has taken a categorical stand that people, who are occupying the accommodation for security reasons, need to be protected. Referring to various orders dated 08.07.2022, 07.10.2022, 01.12.2020, 05.12.2020, 22.12.2020 and 23.11.2021 passed by this Court from time to time, the applicant has asserted that these orders would suggest that till threat perception is re-assessed by the Government, the persons occupying the Government accommodation will not be disturbed. According to the applicant, the stand taken by the Government and orders passed by this Court from time to time would suggest that security of such persons was to be re-assessed and then only, they are to be evicted from the Government



accommodation taking into consideration their threat perception and not otherwise.

5. Heard arguments and perused the file.

6. While learned senior counsel appearing for the applicant has reiterated the grounds urged in the memo of the present application, learned counsels appearing for the respondents/non-applicants vehemently argued that issue of security assessment is altogether different from entitlement of Government accommodation and since the applicant, having already availed the statutory remedy under the Public Premises Act, had himself withdrawn the petition, therefore, present application is liable to be dismissed. They have relied upon judgments passed by this Court titled **Court on its own Motion v. Union Territory of J&K and ors.** [WP(C) No. 24 of 2020 dated 18.02.2021], **Showkat Hussain Ganai v. UT of J&K and others** [WP(C) No. 996 of 2022 dated 20.05.2022] and a judgment passed by High Court of Delhi titled **Dr. Subramanian Swamy v. Union of India and anr.** [WP(C) No. 7868 of 2022 dated 14.09.2022].

7. The case set up by the applicant is that since the accommodation in question was co-terminus with his security arrangements, which are required to be made for a Z-category protectee, therefore, in the absence of re-assessment of his security or downgrading of threat perception to his life, respondents be restrained from evicting him from the Government accommodation in question. There is no doubt that the applicant, being a former Minister, Member of the Parliament and Member of the Legislative Assembly is entitled to proper security cover, which is required to be reviewed/re-assessed from time to time, however, there is nothing on the record to suggest that there is any policy or guideline



which obligates the Central Government or the Government of UT for that matter to provide official accommodation to Z-Category protectee.

8. We have carefully gone through all the communications, referred by learned Sr. Counsel appearing for the applicant and there is nothing to suggest that persons occupying the Government accommodations can be evicted only after the review/re-assessment of their threat perceptions. As a matter of fact, this Court vide order dated 05.12.2020 has clarified this position in paragraphs 3 and 4 of the said order which reads thus:

“3. In response to our query, we are informed that there is no requirement in law for the government to provide accommodation as well to a person who is being provided a security cover.

4. In any case, even if accommodation was required to be provided in exceptional circumstances, the accommodation of a former chief minister/minister or a retired bureaucrat cannot be the same after his ceasing to occupy the office as he was occupying when he was in office.”

9. Be that as it may, it is own case of the applicant that proceedings under Public Premises Act were initiated against him, he assailed the proceedings and preferred a writ petition in this Court. The applicant himself withdrew the writ petition and the said writ petition was dismissed as withdrawn. However, the applicant was given six weeks time to vacate the Government Bunglow in question. Since the said period of six weeks would expire on 27.12.2022, the applicant has come up with the present application.

10. It is pertinent to mention that in view of illegal retention and occupation of Government accommodations by Ex-ministers, Ex-legislators and Ex-bureaucrats in the UT of J&K, this Court, taking note of the directions passed by Hon’ble Supreme Court in **S. D. Bandi v. Divisional Traffic Officer, Karnatna** reported as (2013) 12 SCC 631 and **Lok Prahari v. State of Utter Pradesh and ors.** reported as



(2016) 8 SCC 389 was constrained to initiate action on its own motion and directed the registration of PIL titled, “*Court on its own Motion v. UT of J&K and others*” (supra) and while passing a slew of directions regarding recovery of the rent/arrears of rent from the occupants of Government accommodation for the period for which they were in unauthorized occupation made the following observations.

“05. At the very outset, we wish to observe that it is unfortunate that some former Ministers/ Legislators/ Retired Officers/ Politicians/ Political persons, etc., have illegally/ unauthorizedly managed to continue to stay in the residential accommodation provided to them by the Government of Jammu and Kashmir, though they are no longer entitled to such accommodation. Many of such persons continue to occupy residential accommodation commensurate with the office(s) held by them earlier and which are beyond their present entitlement. The unauthorized occupants must realize that rights and duties go correlative to each other, inasmuch as the rights of one person entail the duties of another person, whereas, the duties of one person entail the rights of another person. In this context, the unauthorized occupants must appreciate that their act of overstaying in the premise directly infringes the right of another. No law or direction can entirely control this act of disobedience, but for self-realization among the unauthorized occupants.”

06. Apart from the above perspective, it, needs, must be said that the natural resources, public lands and the public goods, like Government bungalows/ official residence are public property that belong to the people of the country. The ‘Doctrine of Equality’, which emerges from the concepts of justice and fairness must guide the State in the distribution/allocation of the same. Any former Minister/Legislator/Retired Officer/Politician/Political person, once he/she demits the office, is on a par with the common citizen, though by virtue of the office held, he/she may be entitled to security and other protocols as per assessment of the concerned filed agency. But allotment of Government bungalow, to be occupied during the lifetime of such persons, would not be guided by the constitutional principle of equality.”

11. In a similar fact situation, Delhi High Court in *Dr. Subramanian Swamy* (Supra) has held as below:

“Turning to the merits of the issues that arise, the Court notes that undisputedly the original allotment was made for a period of 05 years. That period has clearly come to an end by efflux of time. The Court has been apprised by the respondents that no security protocol mandates or requires the allotment of Government accommodation to a ‘Z’ Category protectee. The Court also bears in mind the fact that while the petitioner was permitted to retain the premises while he was a Member of the Rajya Sabha, even that term has come to an end. All that would, therefore, be left to be done by the respondents would be to ensure that



adequate arrangements are made so as to secure the residential premises of the petitioner bearing in mind the threat perception that he is stated to face. The Court takes on board the statement made by the learned ASG in this respect.”

12. Again this Court in an identical fact situation in **Showkat Hussain Ganie (Supra)** taking a serious view that the petitioner was guilty of suppression of material information from this Court that he had already filed a writ petition challenging the eviction notice against him, which came to be declined by this Court, dismissed the petition filed by the petitioner with costs. Relevant paragraph of the order, for the facility of reference, reads as below:

“8. For all these reasons, I find no merit in this petition and the same is, accordingly, dismissed. However, in view of suppression of material information by the petitioner and obtaining interim directions without disclosing filing and dismissal of the earlier petition challenging the impugned order, the petitioner needs to be penalized so that he does not dare to repeat it again. Accordingly, the petitioner is burdened with the payment of Rs.25,000/- as costs to be deposited in the Advocates’ Welfare Fund within four weeks from the date of this order. If the costs are not paid by the petitioner within the aforesaid period, Registry shall frame the Robkar and place it before the appropriate bench for further proceedings.”

13. Though applicant has admitted that the writ petition filed by him against proceedings initiated against him under the Public Premises Act was dismissed as withdrawn by learned Single Bench of this Court, yet he has come up with the instant applicant with the sole intention to prolong his unauthorized occupation of the Government Bungalow, when the period of six weeks granted to him for vacation of the Bungalow would expire tomorrow on 27.12.2022. This amounts of an abuse of the process of law.

14. For what has been discussed hereinabove, it is evident that security assessment and entitlement to Government accommodation are two different issues and cannot be intermingled to defeat the process of law. The present application filed by the applicant is nothing but an abuse of the process of law.



15. Considered thus, the present application along with connected CM No. 7468/2022, being devoid of merit, is dismissed with costs quantified at Rs. 25,000/- to be deposited in the Advocates' Welfare Fund within a period of two weeks, failing which, the Registry shall maintain the index.

(RAJESH SEKHRI)
JUDGE

(TASHI RABSTAN)
CHIEF JUSTICE (A)

JAMMU
26.12.2022
Paramjeet

Whether the order is reportable?

Yes

