

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).12065/2009

(From the judgement and order dated 11/02/2009 in CM No.15895/2005,WP No.17682/2005 of The HIGH COURT OF DELHI AT N. DELHI)

UNION OF INDIA

Petitioner(s)

VERSUS

VIMAL BHAI & ORS.

Respondent(s)

(With appln(s) for directions and intervention and modification of Court's Order and permission to place addl. documents on record and impleadment and office report)

WITH

T.C.(C) NO. 132 of 2011

T.C.(C) NO. 133 of 2011

SLP(C) NO. 36343 of 2011

(With prayer for interim relief and office report)

T.C.(C) NO. 35 of 2012

(With appln.(s) for permission to file addl.documents)

W.P(C) NO. 120 of 2012

(With appln.(s) for directions)

Date: 15/03/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For U.O.I.

Mr.G.E.Vahanvati, AG

In WP(C)120/12

Mr.Paras Kohad, ASG

Mr.Abhinav Mukherji, Adv.

Mr.B.V.Balram Das, Adv.

Amicus Curiae (s)

Mr.P.P.Rao, Sr.Adv.

For Petitioner(s)

Mr.P.P.Malhotra, ASG

Mr.Harish Chandra, Sr.Adv.

Mr.Gaurav Sharma, Adv.

Mr.A.Chidanand, Adv.

Mr.A.S.Chandiok, ASG

Mr.P.C.Agarwal, Sr.Adv.

Mr.Partap Parmar, Adv.

Mr.T.C.Agarwal, Adv.

Ms.V.Mohana, Adv.

Mr.Aljo K.Joseph, Adv.

Ms.Sushma Suri, Adv.

Mr.Mohan Prasad Gupta, Adv.

Mr. Shreekant N. Terdal, Adv.

Ms.Binu Tamta, Adv.

Mr.Dhruv Mehta, Adv.

Mr. Annam D.N. Rao, Adv.

Mr. Vikas Mehta, Adv.

For Respondent(s)

For State of M.P. Mr.S.K.Dubey, Sr.Adv.
Mr.Sourav Mishra, Adv.
Mr.Yogesh Tiwari, Adv.

For Respondent No.8 Mr.S.K.Agarwal, Sr.Adv.
Mr. Arun K. Sinha, Adv.
Mr.Rakesh Singh, Adv.

Mr.Manjit Singh, AAG
Mr.Tarjit Singh, Adv.
Mr.Kamal Mohan Gupta, A.O.R.

For Respondent No.2 Ms.Pragya Jha, Adv.
Ms.Meenakshi Arora, Adv.

For Noticee No.1 Mr.Manoj V.George, Adv.
Mr.K.Gireesh Kumar, Adv.
Ms.Shilpa M.George, Adv.

For Noticee No.3 Mr. Sudhir Kulshreshtha, Adv.
Mr.Sameer Kulshreshtha, Adv.

For Noticee No.4 Mr.Robin Majumdar, Adv.

For Noticee No.5 Mr.Rajeev Sharma, Adv.

For Noticee No.6 Mr.Arvind Kumar Tewari, Adv.

For Noticee No.7 Mr.Saket Singh, Adv.
Mr.Kumar Ranjan Mishra, Adv.
Ms. Niranjana Singh, Adv.

For Noticee No.39 Ms.Anita Sharoha, Adv.
Mr.Anil Kumar Gautam, Adv.

For Resp.No.85 Mr.Baldev Atreya, Adv.
Mr.Vikrant Y.S.Narula, Adv.
Mr.Deepak Goel, Adv.

For State of W.B. Mr.Bikas Kargupta, Adv.
Mr.Avijit Bhattacharjee, Adv.

For State of T.N. Mr.B.Balaji, Adv.
Mr.R.Rakesh Sharma, Adv.
Mr.P.Krishnamoorthy, Adv.

Mr.Anil Grover, Adv.
Ms.Noopur Singhal, Adv.
Ms Shubhangi Tuli, A.O.R.

Mr.Prem Kumar, Adv.
Dr. V.P. Appan, Adv.

Mr.Sanjay Parekh, Adv.
Ms. Anitha Shenoy, Adv.

Mr.R.K.Handoo, Adv.
Mr. Yoginder Handoo, Adv.
Mr.Parth Mullick, Adv.

Mr. Dushyant Parashar, Adv.
Ms.Neelam Sharma, Adv.

Mr.T.V.George, Adv.
Mr.Rakesh Taneja, Adv.
Mr.Maurya Sarkar, Adv.
Mr.Dushyant Kumar, Adv.

Ms.Suparna Srivastava, Adv.

Mr.Ram Swarup Sharma, Adv.

Mr. Nikhil Nayyar, Adv.

Mr.Vikash Verma, Adv.

Mr.S.Ahmed, Adv.

Mr. Arvind Kumar Tewari, Adv.

Mr. K.B. Rohtagi, Adv.

Ms. Mridula Ray Bharadwaj, Adv.

Mr.Viresh B.Saharya, Adv.

Respondent-in-Person

Mr. Satish Aggarwal, Adv.

Mr. M.T. George, Adv.

Ms.Kavitha K.T., Adv.

Mrs Shiel Sethi, Adv.

Mr. Ranbir Singh Yadav, Adv.

Mr. Ranjan Mukherjee, Adv.

Mr. Chander Shekhar Ashri, Adv.

Mr. K.S. Rana, Adv.

Mr. B.S. Banthia, Adv.

Mr. K.L. Janjani, Adv.

Gp.Capt.Karan Singh Bhati, Adv.

Ms. Asha Gopalan Nair, Adv.

Mr. Ashiesh Kumar, Adv.

Mr. Praveen Swarup, Adv.

Ms. Meera Mathur, Adv.

Ms. Praveena Gautam, Adv.

Mr. C.S.N. Mohan Rao, Adv.

Ms. Nidhi, Adv.

Mr. Vipin Kumar Jai, Adv.

Mr. Samir Ali Khan, Adv.

Mr. Sudarshan Singh Rawat, Adv.

Mr. Nirnimesh Dube, Adv.

Mr. Harish Pandey, Adv.

Md. Shahid Anwar, Adv.

Mr. Mishra Saurabh, Adv.

Mr. Anil Kumar Gautam, Adv.

Mr Sanjay Kumar Singh, Adv.

Mr. Mohit Abraham, Adv.

UPON hearing counsel the Court made the following
O R D E R

At the commencement of hearing, Shri A.S.Chandiok, learned Additional Solicitor General, placed before the Court xerox copy of letter dated 27.02.2013 sent by the Director of Estates to the Chairman, National Green Tribunal, Principal Bench, Van Vigyan Bhawan, Sector-V, R.K.Puram, New Delhi -110 022 regarding allotment of General Pool Type-VII houses in Commonwealth Games Village to the Judicial Members of National Green Tribunal. The same is taken on record.
Unauthorised/Illegal occupation of Government accommodation/Regularisation of such Unauthorised/Illegal occupation

Learned Additional Solicitor General should produce on the next date of hearing order dated 04.01.2013 which, according to him, passed for regularisation of the allotment of 11-A, Teen Murti Marg, New Delhi.
Shri Radha Krishin Rawal

The Registry is directed to furnish copy of the affidavit of Shri Radha Krishin Rawal to the office of Shri A.S.Chandiok, learned Additional Solicitor General, within four days.

Reply on behalf of the Union of India be filed within two weeks.
Smt.Vimla Sharma

Shri D.L.Sharma, husband of Smt.Vimla Sharma was allotted premise No.416, Lancer Road, New Delhi. The allottee died in 1988. After about two years, his daughter was appointed as a Class-III employee on compassionate ground. The applicant has been unauthorisedly occupying the Government premise for last more than 23 years. She is allowed two months' time to vacate the Government accommodation.

However, it is made clear that if any liability has been created against her by the concerned authority then she shall be free to avail appropriate legal remedy.
Mr.Jawahar Sircar

Shri Rajeev Sharma, learned counsel appearing on behalf of Noticee No.5 - Mr.Jawahar Sircar brought to our notice the decision taken by the Cabinet Committee on Accommodation for allotment of accommodation No.C-II/157, Chanakyapuri to his client after his retirement as Secretary, Ministry of Culture.

Shri A.S.Chandiok, learned Additional Solicitor General, says that he would place before the Court the policy, if any, framed by the Government for allowing the erstwhile occupants of the Government accommodation to retain such accommodation on their post-retiral assignment in the Government and/or its instrumentalities/agencies.
Shri Baljit Singh

Shri Baljit Singh, Addl.DG, B.S.F. who was allottee of Flat No.DII/175, Kidwai Nagar West, New Delhi retired from Government service on 31.07.2011. The applicant has been unauthorisedly occupying the Government accommodation.

Two months' time is granted to Shri Baljit Singh to vacate the Government accommodation.
Dr.Ashok Kohli

Shri A.S.Chandiok, learned Additional Solicitor General, pointed out that in view of enhancement of the age of retirement, Dr.Ashok Kohli is entitled to continue to occupy Flat No.DII/61, Pandara Road till his superannuation on 31.12.2013.
Mr.Sapan Kumar

Since the applicant has been reinstated in service, his occupation of the Government accommodation cannot be treated as unauthorised. However, it is made clear that this observation will not entitle him to contest the levy of penal rent.
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Shri Sanjay Parekh, learned counsel for the respondent made a

grievance that the Benches of the National Green Tribunal at Pune, Bhopal and Calcutta have not been made functional so far.

Shri S.K.Dubey, learned senior counsel appearing for the State of Madhya Pradesh gave an unequivocal assurance to the Court that the State Government will take all steps necessary for making the Tribunal functional by 30.04.2013.

Learned counsel representing the State of West Bengal relied upon the affidavit filed in November, 2011 but could not indicate the actual progress made for making the Bench of the Tribunal functional.

We are pained to observe that despite the direction contained in our order dated 06.12.2012, the Governments of the States of Madhya Pradesh, Maharashtra and West Bengal have not taken adequate measures for making the Benches of the National Green Tribunal at Bhopal, Pune and Calcutta functional.

At one stage, it was felt that summoning of the senior officers of the three States is necessary for ensuring that the Benches of the Tribunal become functional but for the time being, we deem it proper to defer the same and request Shri P.P.Malhotra, learned Additional Solicitor General, to get in touch with the Chief Secretaries and Secretaries of the concerned Departments of the three States and convey them in uncertain terms that they shall be personally held responsible for not making the Benches of the National Green Tribunal functional at Bhopal, Pune and Calcutta.

We hope and trust that the concerned officers of the three States would realise the importance of the Benches of the National Green Tribunal and ensure that the same become functional without further delay. Any lapse in this respect will be viewed seriously and would visit the concerned officers with penal consequences.

List the case on 04.04.2013.

On the next day, the Court will, after considering the issue relating to establishment of three Benches of the Tribunal, take up the applications made by various persons who are unauthorisedly/illegally occupying the Government accommodation. Shri A.S.Chandiok, learned Additional Solicitor General, should instruct his colleague to prepare a chart indicating present status of occupation of Government accommodation by different applicants.

To be taken up at 2.00 P.M.

While adjourning the case, we direct that henceforth the Central Government shall not regularize, in any manner, the occupation of Government accommodation in favour of any person, irrespective of his status, who is in illegal/unauthorised occupation of such accommodation.

W.P.(C)No.120 of 2012

At the commencement of hearing, learned Attorney General handed over xerox copy of the third Additional Counter Affidavit filed on behalf of respondent No.2. The same is taken on record.

A perusal of the affidavit shows that the issue of parity of the age and other conditions of post-retiral engagement and functioning of the Tribunals and other quasi-judicial bodies which are headed by the former Judges of this Court and Chief Justice and Judges of the High Court has been referred to the Group of Ministers.

Learned Attorney General gave out that the issue will be considered by the Group of Ministers at an early date.

In view of the statement made by the learned Attorney General, further hearing of the writ petition is adjourned to 03.05.2013.

To be taken up at 3.00 P.M.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master