

# IN THE HIGH COURT OF SINDH AT KARACHI

Before:

Mr. Justice Irfan Saadat Khan

Mr. Justice Adnan-ul-Karim Memon

## **Constitutional Petition No. D –2089 of 2021**

Jamshed Ali (Bhutta)

*Versus*

Province of Sindh and 6 others

Date of hearing & order : 25.03.2021

Mr. Muhammad Shafique (Malik), advocate for the petitioner.

### **ORDER**

**ADNAN-UL-KARIM MEMON, J.** – Through this Constitutional Petition, the petitioner has called in question the office order dated 24.02.2021 issued by the respondent-Police Department, whereby the allotment of Government Quarter/Flat No.03, Block 04 Type-G situated at Shahrah-e-Faisal Family Police line East Zone Karachi, allotted to Riasat Ali (retired police officer), was canceled, *inter alia*, on the following facts and grounds.

2. As per pleadings of the petitioner, the process of allotment of the subject quarter was in process, however, the official respondents abruptly canceled the subject quarter duly allotted to one Riasat Ali vide office order dated 24.02.2021 without accommodating him, at the first instance.

3. It appears from the record, the subject quarter had never been allotted to the petitioner. Merely sending various applications to the competent authority for accommodating him in the subject premises, does not create a vested right in his favor. However, he relied upon the various correspondence made in this regard. Per petitioner, he had legitimate expectancy for the allotment of the subject accommodation but the respondent-Police Department turned their deaf ear; and, in pursuance of the above decision, impugned cancellation of allotment order has been issued, impliedly calling upon him to vacate the official accommodation, which has been impugned in the present petition.

4. Mr. Muhammad Shafique (Malik), learned counsel for the petitioner, has argued that the petitioner cannot be termed as an unauthorized occupant by any stretch of the imagination as the respondent-Police Department themselves had allotted the official accommodation to Riasat Ali (relative of the petitioner) who has just retired from service in January 2021. It is further urged by him that as per accommodation policy petitioner

falls within such Category and he is entitled to the allotment of the subject quarter; and, the official respondents are under obligation to accommodate him in place of Riasat Ali, however, they are avoiding to allot the subject quarter to the petitioner as per police rules. Per learned counsel, the action of respondent-Police Department was/is based on malafidely intention while canceling the subject allotment and subsequently accommodating the private respondent, without looking into the fact that the petitioner and his family are living in the subject premises; and, as such the impugned cancellation of allotment is misconceived and illegal; and, violates the law, this is liable to be set aside. It is urged that the petitioner has been occupying accommodation strictly under the terms of allotment order in favor of his relative namely Riasat Ali who has just retired from service and nothing is outstanding against him in the shape of rent. He prayed for the annulment of the office order dated 24.02.2021.

5. We have heard learned counsel for the petitioner on the maintainability of the instant petition and have perused the material available on record.

6. *Prima-facie* the petitioner has not yet been allotted the subject quarter and after the retirement of Riasat Ali in January 2021, and he was just allowed to remain in possession, by a retired police official, without any justification under the law, therefore, no vested right can be claimed by him to retain the official accommodation for an indefinite period. Even otherwise, we are not satisfied with this assertion made by learned counsel for the petitioner to the effect that he is authorized occupant of subject accommodation, which act on his part is not appreciated for the simple reason that to date no allotment order has been made in his favor, who is stated to be an employee of respondent-Police Department and it is for the competent authority to take appropriate decision if the petitioner is so entitled to such official accommodation under the law. The documents relied upon by him do not confer any right thereupon permitting him to ask for the continuation and allotment of the subject premises in his favor. However, we expect the competent authority to look into the matter of the petitioner sympathetically and consider his request as per law within a reasonable time.

7. In light of the above facts and circumstances, this petition is dismissed in limine along with the pending application(s) with no order as to costs.

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