

# IN THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Irfan Saadat Khan

Mr. Justice Adnan-ul-Karim Memon

## **Constitutional Petition No. D –3520 of 2021**

Zahid Hussain Shah Naqvi

*Versus*

Additional I.G. Sindh Police and 07 others

Date of hearing  
& order : 04.06.2021

Petitioner, Zahid Hussain Shah Naqvi, present in person.

### **ORDER**

**ADNAN-UL-KARIM MEMON, J.** – Through this constitutional petition, the petitioner has called in question the order dated 06.01.2021 issued by the respondent-Police Department, whereby the allotment of Government Quarter No. Flat No.7, Block-A, Type-G, Karachi, allotted to him was cancelled, *inter alia*, on the following facts and grounds.

2. As per pleadings of the petitioner, during his service tenure was allotted Government Accommodation i.e. Flat No.7, Block-A, Type-G, Karachi. It appears from the record, petitioner stood retired from police service on 26.10.2020 and retained the possession of the aforesaid official accommodation on the premise that he sent various applications to the competent authority for accommodating his adopted son namely Anis Raza, Police Constable, in the subject premises after his retirement, but no action was taken upon the said applications. However, he relied upon the various correspondence made in this regard. Per petitioner, he had legitimate expectancy for the allotment of the subject accommodation in the name of his adopted son but the respondent-Police Department turned their deaf ear; and, in pursuance of the above decision, impugned cancellation of allotment order has been issued to the petitioner, impliedly calling upon him to vacate the official accommodation, which has been impugned in the present petition.

3. Petitioner, who is present in person, has submitted that the petitioner cannot be termed as an unauthorized occupant by any stretch of the imagination as the respondents themselves had allotted the official accommodation to him and subsequently he stood retired from service on 26.10.2020, however, his adopted son was appointed as Police Constable (BPS-05). It is further urged by him that as per accommodation policy, petitioner's adopted son falls within the Category-V and he is entitled to the allotment of the subject quarter; and, the official respondents are well aware of the aforesaid factum vide verification report dated 21.10.2020, which explicitly shows the possession of the subject quarter is still lying with his adopted son Anis Raza. Thus, they are under obligation to accommodate him in my place however, they are avoiding to reallocate the subject quarter to his son as per police rules. Per petitioner, the action of respondents No.1 to 5 was/is based on malafidely intention while issuing impugned order dated 06.01.2021 to accommodate their blue-eyed namely Sana Moin (Lady Police Constable) without looking into the fact that the petitioner and his family is living in the subject premises and as such the impugned notice for vacation/cancellation of allotment is misconceived and illegal; and, violates the law and thus is liable to be set aside. It is urged that the petitioner has been occupying accommodation strictly under the terms of allotment and nothing is outstanding against him in the shape of rent. He prayed for the annulment of the office order dated 06.01.2021.

4. We have heard the petitioner who is present in person on the maintainability of the instant petition and have perused the material available on record.

5. *Prima-facie* the petitioner's adopted son has not yet been allotted the subject quarter and after the retirement of the petitioner on 26.10.2020, he was allowed to remain in possession up to 06.01.2021 without any justification under the law, therefore, no vested right can be claimed by him to retain the official accommodation for an indefinite period under the Sindh Police Residential Accommodation Allotment Policy. Even otherwise, we are not satisfied with this assertion made by 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 favour of his adopted son 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's adopted son is so entitled to such official accommodation under the law considering the rule of priority and eligibility. It is also dependent on the availability of quarters and preferential rights and also those who applied earlier and are in the queue waiting for their turn. The documents relied upon by him do not confer any right thereupon permitting him to ask for the continuation and re-allotment of the subject premises in favour of his adopted son. At this stage, the petitioner has drawn our attention that he is still entitled to retain the official accommodation for one year from the date of his retirement i.e. 26.10.2020 as per policy, which period has not yet expired.

6. If this is the position, we expect that the competent authority shall look into the matter of the petitioner on the aforesaid analogy and consider his request as per law within one month, if he is at all entitled to retain the official accommodation for one year from the date of his retirement as per policy.

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

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