

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.459 of 2021

In
Civil Writ Jurisdiction Case No.19359 of 2016

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Avanish Kumar Singh S/o Late Vindhyachal Singh Resident of Village-Jihuli,
P.S.-Patahi, District-East Champaran, Presently residing at Mohalla-
Chaudhary Tola, Ganga Vihar Colony P.S.-Sultanganj, Town and District-
Patna.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Building Construction Department, Government of Bihar,
2. The Secretary, Building Construction Department, Govt. of Bihar,
3. The Executive Engineer, Tax Division, Building Construction Department, Government of Bihar, Patna.
4. The Estate Officer, Building Construction Department, Government of Bihar, Patna.
5. The Secretary, Bihar Legislative Assembly, Patna.
6. The Additional Secretary, Bihar Legislative Assembly, Patna.
7. The Secretary, Bihar Legislative Council, Patna.
8. The Additional Secretary, Bihar Legislative Council, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Vijay Kumar, Advocate
For the Respondent/s	:	Mr. P K Shahi, Advocate General
for the BLC	:	Mr. Aditya Prakash Sahay, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA)

Date : 03-04-2025

Heard the parties.

2. In the present appeal the appellant/petitioner has challenged the order dated 13.01.2021 passed by learned Single Judge in CWJC No.19359 of 2016 by which the writ application filed by the appellant/petitioner was dismissed on the ground



that for claiming the same relief, the appellant/petitioner had earlier filed CWJC No.19237 of 2015, which was withdrawn unconditionally by the appellant/petitioner without seeking any liberty to move afresh. Hence, the learned Single Judge was not inclined to allow the appellant/petitioner to re-agitate the same issue in the second writ petition bearing CWJC No.19359 of 2016. Being aggrieved with this order of the learned Single Judge, the appellant/petitioner has filed the present LPA as against the aforesaid order.

3. Considering the maintainability of a second writ petition, under Article 226 of the Constitution of India in similar circumstances, the learned Single Judge rightly relied upon a decision of the Apex Court, in the case of **Joint Action Committee of Air Line Pillots' Associations of India and others vs. Director General of Civil Aviation and others** reported in **(2011) 5 SCC 435** wherein at paragraph-12 and 13 of the said judgment, the Apex Court held and observed as follows:

“12. The doctrine of election is based on the rule of estoppel – the principle that one cannot approbate and reprobate inheres in it. The doctrine of estoppel by election is one of the species of estoppels in pais (or equitable estoppel), which is a rule in equity. By that law, a person may



be precluded by his actions or conduct or silence when it is his duty to speak, from asserting a right which he otherwise would have had. Taking inconsistent pleas by a party makes its conduct far from satisfactory. Further, the parties should not blow hot and cold by taking inconsistent stands and prolong proceedings unnecessarily.

13. In view of the above, it is clearly evident that some of the present appellants had challenged CAR 2007, wherein it had been submitted that AIC 28 of 1992 was based on better scientific studies. The same remained in operation for more than 17 years and no one had even raised any grievance in respect of its contents or application. However, it appears that during the pendency of the said writ petition, grievance of those petitioners stood redressed and, thus, they withdrew the writ petition. They did not even ask the court to reserve their right to file a fresh petition challenging the same, in case the need arose, as required in the principle enshrined in Order 23 of the Code of Civil Procedure, 1908. Such a conduct of those appellants in blowing hot and cold in the same breath is not worth approval.”

4. Recently also in the case of **State Of Orissa and Anr. vs Laxmi Narayan Das (Dead) through Legal Representative and Ors.** reported in **(2023) 15 SCC 273**, the Hon’ble Apex Court in paragraph-37 and 38 has held and observed as follows:



“37. On the question, as to whether after the withdrawal of a suit claiming the same relief without having permission to institute fresh one for the same relief, a writ petition will be maintainable before the Court, the guidance is available from the judgment of this Court in *M.J. Exporters Private Limited v. Union of India and others*(2021) 13 SCC 543, wherein the principle of constructive res judicata was applied. The case concerns a litigant who sought to file a fresh writ petition after withdrawal of the earlier writ petition filed for the same relief without permission to file fresh one. The Court held that the principles contained in Order 23, Rule 1 CPC are applicable even in writ proceedings. Para 15 thereof is extracted below:

“15. In these circumstances, we feel that when this issue was raised and abandoned in the first writ petition which was dismissed as withdrawn, the principles of constructive res judicata which are laid down under *Order 23 Rule 1 of the Code of Civil Procedure, 1908*, and which principles are extendable to writ proceedings as well as held by this in *Sarguja Transport Service v. STAT*, (1987) 1 SCC 5.”

38. Having regard to the principles laid down in *M.J. Exporters Private Limited*, in our view, applying the principles of constructive res judicata, the present writ petition filed by the respondents after withdrawal of the civil suit, was not maintainable, in the sense that it ought not to have been entertained. In case



the respondents still wanted to justify filing of the writ petition, they should have at least disclosed complete facts and then justify filing of the writ petition.”

5. In view of the above settled position of law with regard to maintainability of second writ petition when the first writ has been withdrawn unconditionally without seeking any liberty to move afresh, the second writ petition filed by the appellant/petitioner bearing CWJC No.19359 of 2016 was not maintainable in law and therefore, for this reason alone the present appeal seeking interference in the order of the learned Single Judge is without any merit and thus fit to be dismissed.

6. Even on merits, the appellant/petitioner does not have any case for the reasons explained hereunder.

7. In the writ application filed by the appellant/petitioner bearing CWJC No.19359 of 2016 the appellant/petitioner had prayed for the following reliefs:-

i) For quashing of an order vide Letter NO. 2001, dated 24.08.2016, issued with the signature of the Executive Engineer, Tax, Division, Building Construction Department (Respondent no. 3) whereby and whereunder an order for deduction of a sum of Rs. 20,98,757.00 (Twenty Lacs Ninety Eight Thousand and seven fifty seven) only as house rent from this petitioner has been issued, pursuant to a directive of the



Estate Officer (Respondent No. 4) issued vide letter No. 6943 dated 20.07.2016, in view of the fact that the petitioners had over stayed in a quarter, earlier allotted to him in the capacity of member, Bihar Legislative Assembly.

ii) For stay the realization of aforesaid amount from this petitioner during pendency of instant writ application, as the petitioner was entitled to retain the said further, in the capacity of member of "Rajya Vidhayee Adhyayan Ewam Prasikshan Bureau (State Legislature Research and Training Bureau), who was having similar status as of a Member Legislative Assembly and Member Legislative Council.

iii) For any other relief or reliefs, the petitioner is entitled for.

8. In the writ application the petitioner had averred that he was for the first time elected as a member of Bihar Legislative Assembly from Dhaka Constituency, in an election held in the year 1990. The petitioner was re-elected from the same constituency in an election held in the year 1995. The petitioner had thereafter lost assembly election in the year 2000, but he was again elected in the next assembly election held in the month of February 2005, followed by his fourth term in a bye-election held in the same year i.e. in the month of November 2005. On being elected, the petitioner as per seniority was allotted Government Quarter No.3, Taylor Road



vide letter no.766 dated 04.05.2006 issued under the signature of Additional Secretary, Bihar Legislative Assembly, consequent upon which the petitioner occupied allotted government quarter. In the writ application the petitioner further contended that he was re-elected for the fifth term in the assembly election held in the year 2010 and the same Government Quarter no.3, Taylor Road was re-allotted to him vide memo no.Awas 15/10-14 dated 17.01.2011, thus the petitioner continued to occupy the said quarter. Petitioner further contended that when he was continued to occupy the said quarter, the same was allotted to one Manoj Kumar Singh, Minister, Water Resources Department, on account of the fact that petitioner had resigned the post of MLA on 14.03.2014 but the said order was later on revoked vide Memo No.11844 dated 21.11.2014 issued under the signature of State Officer and thus the same quarter/government Bunglow continued to remain in the possession of the petitioner.

9. In the writ application it was further contended by the appellant/petitioner that for contesting 2014 Parliamentary Election the appellant/petitioner resigned from the post of MLA on 14.03.2014 and thereafter he lost the 2014 Parliamentary Election. The petitioner further stated that pursuant to losing the 2014 Parliamentary Election, the appellant/petitioner was



nominated as a member of “State Legislature Research and Training Bureau” vide Memo No.2724 dated 27.10.2014 (Annexure-2 to the writ application) under the provisions of Rule 283(j) of the Bihar Legislative Council of Procedure and Conduct Rules.

10. In paragraph-10 of the writ application the petitioner specifically contended that as per Notification No.58/2008-2583(3) dated 21.08.2008 issued under the signature of the then Secretary, Bihar Legislative Council, a member of “State Legislature Research and Training Bureau” was entitled to avail all the perks and privileges as was available to a member of either the Bihar Legislative Council or Assembly. The relevant portion of the notification dated 21.08.2008 (Annexure-3 to the writ application) is quoted herein below for needful:

"राज्य विधायी अध्ययन एवं प्रशिक्षण ब्यूरो के सदस्यों को बिहार विधान मंडल (सदस्यों का वेतन भत्ते एवं पेशन) नियमावली 2006 के नियम 17 (2) IV के प्रावधानुसार पुर्व सदस्य के रूप में देय पेंशन, रेलवे कुपन एवं चिकित्सा सुविधा के अतिरिक्त पटना मे आवास की सुविधा, दैनिक भत्ता, दुरभाष की सुविधा विद्युत शुल्क की सुविधा और उपस्कर तथा स्टेशनरी हेतु वे ही सुविधाएं अनुमान्य होगी जो बिहार विधान परिषद / सभा के वर्तमान माननीय सदस्यो को उपलब्ध



है।"

Interpreting the above notification dated 21.08.2008, the petitioner in paragraph-11 of the writ application stated that *".....as per this circular the petitioner was allowed to continue all the facilities available to him as the member of legislative assembly and thus the same telephone number was allotted to him as well as a letter no.702(4) dated 13.05.2015 with the signature of the Additional Secretary, Bihar Legislative Council (respondent no.7) was issued, address to the Secretary, Building Construction Department to allow this petitioner continue his occupation in the same Quarter No.3, Tailor Road after regularisation."*

11. The petitioner further contended that the Additional Secretary of Bihar Legislative Council had again sent a fresh reminder vide his letter no.1359(4) dated 06.10.2015 addressed to the Principal Secretary, Building Construction Department, stating therein that till then no communication had been made regarding allotment of any quarter to the petitioner and thus the Principal Secretary, Building Construction Department was requested to communicate with regard to decision taken in the matter. The petitioner further contended that despite these communications issued by the Additional Secretary, Bihar Legislative Council,



the Executive Engineer, Tax Division, Building Construction Department, Bihar, Patna (respondent no.3 in the writ application) issued a letter bearing no.11783 dated 25.11.2015 by which the appellant/petitioner was directed to vacate the said Government Quarter No.3, Taylor Road as the same had been earmarked for Minister. Fearing threat of forcible eviction, the petitioner had filed a writ application before this Hon'ble Court vide CWJC No.19237 of 2015 but the same was unconditionally withdrawn vide order dated 06.01.2016 and thereafter the petitioner had preferred Title Suit No.03 of 2016 against the threat of forcible eviction, but ultimately due to constant pressure, the petitioner finally vacated Quarter No.3 situated at Taylor Road on 12.05.2016. The petitioner further contended in the writ application that when the petitioner had gone to visit Bihar Legislative Council he was served with a letter dated 24.08.2016 issued under the signature of the Executive Engineer, Tax Division (respondent no.3), from perusal of which he learnt that a total demand of Rs.20,98,757/-(Twenty Lakhs Ninety Eight Thousand Seven Hundred Fifty Seven) was due against him as house rent for the period of over stay in the said quarter from 14.04.2014 to 12.05.2016.

12. As per the petitioner, the said letter dated



24.08.2016 (Annexure-10 to the writ application) creating a dues of Rs.20,98,759/- against the petitioner, was illegal, without jurisdiction and in contravention of notification dated 21.08.2008 by which the petitioner had claimed that he was entitled to the same perks and privileges as that of a member of Bihar Legislative Assembly or Bihar Legislative Council and hence being aggrieved the petitioner had filed the writ application challenging the letter dated 24.08.2016 (Annexure-10 to the writ application) whereby an order for deduction of a sum of Rs.20,98,757/- as house rent from the petitioner had been issued, pursuant to a directive of the State Officer (respondent no.4 in the writ application) issued vide letter no.6943 dated 20.07.2016. It is considered appropriate to quote the entire letter no.2001 dated 24.08.2016, which was the subject matter of challenge in the writ application. The same is quoted herein below for needful:

कार्यपालक अभियन्ता का कार्यालय
कर प्रमण्डल, भवन निर्माण विभाग, पटना

पत्रांक— 2001

पटना/दिनांक:— 24.8.16

प्रेषक:—

कार्यपालक अभियन्ता,
कर प्रमण्डल, भवन निर्माण विभाग,
बिहार, पटना।

सेवा में,

सचिव,
बिहार विधान सभा
पटना।



विषय:- श्री अवनीश कुमार सिंह, पूर्व माननीय स0 वि0 स0, पटना का क्षेत्र सं0-20 द्वारा पूर्व में धारित सरकारी आवास संख्या-03, टेलर रोड, पटना के बकाया राशि वसुली के सम्बन्ध में।

प्रसंग:- भू-सम्पदा पदाधिकारी के पत्रांक 6943 (भ) दिनांक 20.7.2016 एवं प्रशाखा पदाधिकारी, बिहार विधान सभा, पटना के पत्रांक 375 दिनांक 27.02.2015

महाशय,

उपर्युक्त विषयक प्रासंगिक पत्र के संदर्भ में कहना है कि श्री अवनीश कुमार सिंह, माननीय पूर्व सदस्य क्षेत्र सं0-20 बिहार विधान सभा, पटना के द्वारा पूर्व धारित आवास संख्या-03, टेलर रोड, पटना में दिनांक 05.05.2006 से दिनांक 12.05.2016 तक आवासित थे। बिहार विधान सभा के पत्रांक 375 दिनांक 27.02.2015 द्वारा सूचित किया गया है कि श्री सिंह दिनांक 14.03.2014 को बिहार विधान सभा के सदस्यता से त्यागपत्र दे दिये थे। उसके उपरान्त उक्त आवास में अनधिकृत रूप से आवासित रहे। नियमानुसार अनधिकृत रूप से रहने पर आवास किराया का 15 गुणा (बाजार -सह-दण्ड किराया) वसुलनीय है। कार्यपालक अभियन्ता, केन्द्रीय भवन प्रमण्डल के पत्रांक 2877 दिनांक 17.05.2016 द्वारा आवास खाली की सूचना प्राप्त हुई है। दिनांक 31.10.2012 तक आवास किराया की राशि जमा है। दिनांक 31.10.2012 से दिनांक 13.04.2014 तक एवं दिनांक 14.03.2014 से 13.04.2014 तक उनके त्याग पत्र देने के पश्चात एक माह अनुमान्य अवधि के साथ किराया की राशि रु0 77,107=62 एवं दिनांक 14.04.2014 से 12.05.2016 तक आवास खाली करने तक बाजार - सह -दण्ड किराया की राशि रु0 20,49,327=82 यानि कुल राशि रु 27,678=00 के समायोजन करने के पश्चात अब कुल बकाया राशि रु 20,98,757=00 रुपये आवास किराया के रूप में वसुलनीय है। उक्त किराया की राशि वसुली का निर्देश भू-सम्पदा पदाधिकारी, भवन निर्माण विभाग, पटना के पत्रांक 6943(भ) दिनांक 20.7.2016 द्वारा दिया गया है।

अतः अनुरोध है कि उक्त बकाया राशि की वसुली करने की कार्रवाई करने की कृपा की जाय। साथ ही साथ माननीय पूर्व सदस्य श्री अवनीश कुमार सिंह के पत्राचार का पता इस कार्यालय को उपलब्ध कराई जाय, ताकि वसुली के सम्बन्ध में उनसे पत्राचार किया जा सके।

विश्वासभाजन
ह0/- अस्पष्ट
कार्यपालक अभियन्ता,
कर प्रमण्डल, भवन निर्माण विभाग,
बिहार, पटना।

13. Per contra; the respondent-State and its functionaries named as respondent nos.1 to 4 in the writ application in their counter affidavit filed before the learned Single Judge had opposed the prayer made by the appellant/petitioner in the writ application and they had defended the decision taken vide letter dated 24.08.2016 by which order for deduction of a sum of Rs.20,98,757/- as house



rent from the petitioner had been issued for the period of 14.04.2014 to 12.05.2016 when the petitioner was in illegal occupation of Quarter No.3, situated at Taylor Road, Patna.

14. In the counter affidavit filed by the respondents, it was stated that the petitioner had demanded no dues certificate of the said Quarter No.3, Taylor Road, Patna from the respondent no.3 by letter dated 18.09.2015 which was responded by the respondent no.3 vide letter no.3966 dated 21.09.2015 in which it had been clearly stated that till 30.09.2015 the dues rent of the said Quarter No.3, Taylor Road, Patna was Rs.14,14,118/- and request was made to the petitioner to pay the said dues, only thereafter a no dues certificate could be issued. The petitioner did not pay the dues despite reminder and instead decided to challenge the demand contained in letter no.3966 dated 21.09.2015 by filing writ application vide CWJC No.19237 of 2015 before this Hon'ble Court, which was later withdrawn by the petitioner without seeking any liberty to move afresh in future. The writ application was thus dismissed as withdrawn. The order dated 06.01.2016 passed in CWJC No.19237 of 2015 which was dismissed as withdrawn is quoted herein below for needful:

“Mr. Manoj Kumar Singh, counsel for the petitioner in presence of the counsel for the



respondents seeks permission of the Court to withdrawn this writ application. There being no objection by the respondents, the writ application is dismissed as withdrawn.”

15. It was further contended in the counter affidavit that the petitioner was an illegal occupant of the Government Quarter No.3, Taylor Road, Patna from 14.04.2014 to 12.05.2016. It was also made clear that the quarter in question fell in the pool meant for ministers and therefore as per the rules the said quarter had been allotted to Hon’ble Minister Dr. Abdul Gafoor vide Office Order No.161 dated 11.12.2015 and therefore the petitioner was repeatedly asked to vacate the said quarter, which in any case he was not entitled to retain on his own after one month from the date of his resignation i.e. 14.03.2014. It was also specifically pointed out by the respondents that after the petitioner had resigned as MLA on 14.03.2014, the government quarter in question was de-allotted by the Bihar Legislative Assembly which the petitioner had also accepted in his different communications. It was further contended by the respondents in the counter affidavit that after hearing the petitioner, letter no.1283(bh) dated 13.02.2017 was sent to the petitioner specifically conveying to him that (i) his allotment of Quarter No.3, Taylor Road, Patna had been



disintegrated by the Bihar Legislative Assembly, (ii) the department had not regularised the period of illegal occupancy i.e. from 14.04.2014 to 12.05.2016 and (iii) this period was treated as illegal occupancy of the government quarter as per rule and therefore the petitioner was asked to deposit the calculated penal rent amounting to Rs.20,98,757/- to the government exchequer.

16. From the facts and circumstances stated above, it is manifest that the petitioner in the writ application had challenged the demand of penal rent of Rs.20,98,757/- as house rent which had been levied on the petitioner vide letter dated 24.08.2016 (Annexure-10 to the writ application) solely basing his case on the notification dated 21.08.2008 (Annexure-3 to the writ application).

17. From a careful reading of the notification dated 21.08.2008, it is apparent that the said notification only says that a member of "State Legislature Research and Training Bureau would be entitled to the benefit of house accommodations, daily allowance, telephone facility, facility of electricity duty etc. as that of an MLA or MLC." It nowhere provides that a former MLA will continue to retain of his own will and volition the same government accommodation/quarter which he had earlier



occupied as MLA. The said notification also does not answer the question as to how the petitioner continued of his own to retain the government quarter which belonged to the pool meant for ministers and also how did he continue to occupy the said quarter when pursuant to his resignation the said quarter had been de-allotted by the Bihar Legislative Assembly. Government Quarter No.3 situated at Taylor Road, Patna had been allotted to the petitioner when he was an MLA. The moment he ceased to be an MLA he ought to have vacated the quarter immediately and should have requested for allotment of an appropriate accommodation in light of notification dated 21.08.2008, but instead of doing that he arbitrarily and illegally continued to occupy the Government Quarter No.3 situated at Taylor Road, Patna and all the time was pressurizing the authorities to regularise the same in his favour after he had ceased to be an MLA. Undoubtedly the conduct of the petitioner was improper. There is no doubt that the petitioner continued to illegally occupy the Government Quarter No.3 situated at Taylor Road from 14.04.2014 to 12.05.2016 and therefore the demand of Rs.20,98,757/- as penal house rent is completely legal and justified. In fact we would be inclined to not only direct the appellant/petitioner to deposit the amount of Rs.20,98,757/- in



the State Exchequer within one month of date of this order but also direct him to pay interest of 6% per annum on the said amount from 24.08.2016 up to the date of payment in the State Exchequer, for the obstinacy on his part to continue to illegally occupy the Government quarter despite being asked to vacate and pay rent.

18. Before parting with this judgement, we would like to deplore the conduct of the appellant/petitioner in light of the following decisions which have squarely dwelled on this issue:-

(a) In the case of **Lok Prahari v. State of U.P. & Ors.** reported in **(2016) 8 SCC 389**, the Hon'ble Supreme Court in paragraph-38 of its judgement observed as follows:

“38. This Court, in the case of **“SD Bandi v. Karnataka SRTC**, (2013) 12 SCC 631, in relation to occupation of government bungalows, beyond the period for which the same were allotted, observed that “it is unfortunate that the employees, officers, representatives of people and other high dignitaries continue to stay in the residential accommodation provided by the Government of India 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 recollect that rights and duties are correlative as the rights of one person entail



the duties of another person similarly the duty of one person entails the rights of another person. Observing this, the unauthorized occupants must appreciate that their act of overstaying in the premise infringes the right of another. No law or directions can entirely control this act of disobedience but for the self realization among the unauthorized occupants”.

(b) In the case of **Samrath Chaudhary @ Rakesh Kumar** this Hon’ble Court vide order dated 07.06.2016 delivered in LPA No.1278 of 2016 held and observed as follows:

“We have already held in other appeal, being L.P.A. No.1274 of 2016 that a person who has been allotted government accommodation in his capacity as M.L.A./M.L.C. or a Minister does not have vested right to hold on to it, once he ceases to be so. In the instant case, the issue is similar and we have no reason to take a different or contrary view.”

(c) In the case of **Court On Its Own Motion vs. Union of Terriroty of GK and Ors. Hon’ble High Court of J & K at Srinagar** vide judgment dated 18.02.2021 delivered in WP (c) PIL No.24 of 2020 held and observed as follows:

“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.

07. Hon'ble the Supreme Court has also had the occasion, many a times, to deliberate upon this issue of unauthorized/ illegal occupation of Government accommodation and, in two leading cases, being (i) '***S. D. Bandi v. Divisional Traffic Officer, Karnataka: (2013) 12 Supreme Court Cases 631***'; and (ii) '***Lok Prahari v. State of Uttar Pradesh & Ors. (2016) 8 Supreme Court Cases 389***', it has not only held that such illegal and unauthorized occupation is bad in law, but has also directed the authorities concerned to recover appropriate rent from the occupants of the said government accommodation for the period during which they were in unauthorized occupation of the



said accommodation.”

(d) In the case of **Mahua Moitra vs Estate Officer, Directorate of Estates & Ors.** vide order dated 18.01.2024 passed in WP(C) 777/ 2024 & CM APPL. 3382 of 2024 the Hon’ble Delhi High Court in paragraph-15 observed as follows while refusing to interfere with the eviction order:

“15. The petitioner having been allotted the government accommodation incidental to her status as a Member of Parliament and that status having ceased upon her expulsion, which expulsion has not been stayed by the Hon'ble Supreme Court despite hearing afforded to her, presently she has no right to continue in the said government accommodation and accordingly, under Article 226 of the Constitution of India, she cannot be granted protection as sought. The allotment of government accommodation to the petitioner was co-terminus with her status, which has come to an end upon her expulsion. No specific Rule has been brought before this court which would deal with the eviction of Members of Parliament from the government accommodation after they cease to be the members.”

19. From aforesaid judgements, it is absolutely clear that time and again it has been held that a person who has been allotted government accommodation in his capacity as MLA/MLC does not have any vested right to hold on to it, once he ceases to be so. He should vacate the same upon ceasing to be an MLA or MLC.



20. The appellant/petitioner of this case has acted completely contrary to the above well settled position in law and has thus invited upon himself the present situation whereby he has been rightly asked to pay penal rent which as per our above direction he should pay with interest as mentioned herein above.

21. For all the aforesaid reasons, we are convinced that this Letters Patent Appeal lacks merit and the appellant/petitioner has not made out any case for interference with the order of the learned Single Judge passed in writ jurisdiction.

22. Hence the present LPA stands dismissed.

(P. B. Bajanthri, J)

(Alok Kumar Sinha, J)

Prakash Narayan

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