

**IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD**

**C.P. No.D- 3623 of 2016**

**Present:**

**Mr. Justice Muhammad Iqbal Kalhoro**

**Mr. Justice Adnan-ul-Karim Memon**

Syed Deedar Ali Shah ----- Petitioner

VERSUS

Province of Sindh  
& others ----- Respondents

**Dates of hearing: 07.03.2019**

**Date of decision: 07.03.2019**

Mr. Nazeer Ahmed Bhatti, advocate for petitioner

Mr. Allah Bachayo Soomro, Addl. A.G

**ORDER**

**ADNAN-UL-KARIM MEMON, J.-** Through this petition, filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner seeks direction to the Respondents No 1 to 3 to get vacated quarter No.B-24 situated in subordinate colony, left Bank Barrage Colony Hyderabad allotted to him vide order dated 29.01.2011.

2. Brief facts to decide the listed petition are that the petitioner alleged in his petition that he was allotted quarter No.B-24 situated in subordinate colony, left Bank Barrage Colony Hyderabad, which was actually in possession of Syed Hakim Ali Shah, Ex-Telephone Operator in Irrigation Department.

3. The main claim of the petitioner is that aforesaid quarter is in illegal occupation of respondent No.6, who is Assistant Sub- Inspector in Police Department.

4. Mr. Allah Bachayo Soomro Learned A.A.G. has submitted that the petitioner is nephew of Syed Hakim Ali Shah, who was serving as operator in Irrigation Department and said quarter was allotted to him and after his retirement from service the said quarter was allotted to Syed Manzoor Ali Shah who is also close relative of Syed Hakim Ali Shah and the petitioner. Later on said Syed Manzoor Ali Shah and Syed Hakim Ali Shah disputed with each other and Syed Manzoor Ali Shah started moving applications for

vacation of the subject quarter from Syed Hakim Ali Shah. Thereafter petitioner came forward and on an understanding between the petitioner's and Syed Hakim Ali Shah the aforesaid quarter was allotted to the petitioner. Perusal of the allotment order dated 29.01.2011 explicitly show that the aforesaid quarter was not in his custody and on the basis of purported possession he was allotted the same by the official respondents.

5. We have been informed that there are so many government official accommodations owned by the Provincial Government which are under unlawful and unauthorized occupation including the subject one.

6. In our view the Courts are duty bound to uphold the constitutional mandate and to keep up the salutary principles of rule of law. In order to uphold such principles, it has been stated time and again by the superior Courts that all acts should be done by the public functionaries in a transparent manner after applying judicious mind and after fulfilling all requirements. The public functionaries are supposed to adhere to the principle of transparency in the performance of their duties and are not bound to carry out/implement any order which is not in accordance with law and they are only obliged to carry out the lawful orders of their superiors and if they are being pressurized to implement an illegal order, they should stay put and record their dissenting notes. But unfortunately, the officers in the Estate Office not only implemented the illegal orders but apparently acted for their own personal benefits/gain.

7. It appears from the record that respondent Department is not vigorously pursuing the matter in case of Government houses are occupied illegally by employees who are not entitled. More effective approach needs to be adopted to take over possession of the houses and allot the same to the employees who are legally entitled.

8. After hearing the learned counsel for the parties, we are inclined to issue directions to the Chief Secretary Government of Sindh to ensure that the matters of unauthorized occupation of official accommodations in any department of Government of Sindh including the subject quarter be taken up on urgent basis and the same issue be decided expeditiously within a period of two months from the date of receipt of this order and thereafter compliance be submitted. In case no compliance is filed, this matter be placed in court.

10. In the light of above facts and circumstances, this petition is disposed of in the above terms.

Let a copy of this order be sent to the office of A.A.G. Sindh and Chief Secretary Sindh for perusal and compliance.

JUDGE

JUDGE

Karar\_hussain/PS\*