

IN THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Muhammad Shafi Siddiqui

Mr. Justice Adnan-ul-Karim Memon

Constitutional Petition No. D -248 of 2021

Faiz Rasool

Versus

Province of Sindh and 05 others

Date of hearing

& order : 13.01.2021

Mr. Muhammad Ramzan Tabassum, advocate for the petitioner.

ORDER

ADNAN-UL-KARIM MEMON, J. - Through this constitutional petition, the petitioner has called in question the order dated 06.03.2020 issued by the respondent-Police Department, whereby the allotment of Government Quarter No.06, Block-B situated at Baghdadi, Family Police line district city Karachi, allotted to his father namely Sub Inspector Raja Khalid Ali, was canceled, *inter alia*, on the following facts and grounds.

2. As per pleadings of the petitioner, his father, during his service tenure was allotted Government Accommodation i.e. Quarter No.06, Block-B situated at Baghdadi, Family Police line district city Karachi.

3. It appears from the record, his father passed away on 02.01.2006 and the petitioner retained the possession of the aforesaid official accommodation on the premise that he sent various applications to the competent authority for accommodating him in the subject premises after the death of his father, 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 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.

4. Mr. Muhammad Ramzan Tabassum, 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 respondents themselves had allotted the official accommodation to the father of the petitioner and subsequently he was appointed as Naib Qasid (BPS-01) under deceased/invalidated quota vide office order dated

02.12.2020. It is further urged by him that as per accommodation policy dated 26.09.2018, petitioner falls within the Category-V and he is entitled to the allotment of the subject quarter; and, the official respondents are under obligation to accommodate him in place of his father, however, they are avoiding to reallocate the subject quarter to the petitioner as per police rules. Per learned counsel, the action of respondent No.5 was/is based on malafidely intention while canceling the subject allotment and subsequently accommodating the private respondents without looking into the fact that the petitioner and his family is living in the subject premises and as such the impugned 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 06.03.2020.

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 death of his father on 02.01.2006, he was allowed to remain in possession up to 06.03.2020 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 favour of petitioner 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 re-allotment of the subject premises in his favour. 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.

J U D G E

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Nadir*