

IN THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Muhammad Shafi Siddiqui

Mr. Justice Adnan-ul-Karim Memon

Constitutional Petition No. D -858 of 2021

Taqi Muhammad

Versus

Province of Sindh and 07 others

Date of hearing

& order : 03.02.2021

Mr. Reham Ali Rind, advocate for the petitioner.

ORDER

ADNAN-UL-KARIM MEMON, J. - Through this constitutional petition, the petitioner has called in question the order dated 08.01.2021 issued by the respondent-Police Department, whereby the allotment of Government Family Quarter No.F-12 (New Block) SHPTC Saeedabad Karachi, allotted to him was canceled, *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. Quarter No.F-12 (New Block) SHPTC Saeedabad Karachi.

3. It appears from the record, petitioner retired from police service on 11.1.2020 and retained the possession of the aforesaid official accommodation on the premise that he sent various applications to the competent authority for accommodating his son namely Nadir Ali 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 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.

4. Mr. Reham Ali Rind, 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 him and subsequently he stood retired from service on 11.1.2020, however, his son was appointed as Police Constable (BPS-05) vide appointment order dated 01.12.2016. It is

further urged by him that as per accommodation policy dated 26.09.2018, petitioner's son 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 my place, however, they are avoiding to reallocate the subject quarter to his son as per police rules. Per learned counsel, the action of respondents No.2 to 7 was/is based on mala fide intention while issuing notice dated 08.01.2021 to accommodate their blue-eyed 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 08.01.2021.

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's son has not yet been allotted the subject quarter and after the retirement of the petitioner on 11.1.2020, he was allowed to remain in possession up to 08.01.2021 without any justification under the law, therefore, no vested right can be claimed by him to retain the official accommodation for an indefinite period. 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 his 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 son is so entitled to such official accommodation under the law considering the rule of priority and eligibility. It is also dependent on 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 son. However, we expect the competent authority to look into the matter of the petitioner and consider his request as per law.

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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