

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 919 of 2023

(Prof. Dr. Gul Afshan versus Vice Chancellor, SALU, Khairpur & others)

Present:

Mr. Muhammad Iqbal Kalhoro, J.

Mr. Arbab Ali Hakro, J.

Dates of hearing : **19.09.2023**

Date of announcement : **28.09.2023**

Mr. Ghulam Shabbeer Shar, Advocate for petitioner.

Mr. Niaz Hussain Maitlo, Advocate for respondents No.1 to 5.

Mr. Jamshed Ahmed Faiz, Advocate for respondent No.5.

Mr. Mehboob Ali Wassan, Assistant Advocate General Sindh.

ORDER

Muhammad Iqbal Kalhoro, J. – Petitioner, a Professor (BPS-21), is posted in Institute of Chemistry, Shah Abdul Latif University, Khairpur (**‘the University’**), has filed this petition for allotment of a Bungalow No. C-6 to her for residence and directions restraining the respondents viz. management of the University from dispossessing her from there. Her case is that the said bungalow was allotted to Professor Dr. Ghulam Abbas Shar, under whom she worked as a PhD student, and he was her supervisor/professor. When she came across accommodation problem, she requested him to share his bungalow with her, and with his permission, started living there and spent a huge amount on its renovation, repair, fixture, etc.

2. After retirement of Professor Dr. Ghulam Abbas Shar, the University allotted the said bungalow to respondent No.5 (*Dr. Naveed Ahmed Shaikh*), who is an Associate Professor, and her application for allotment of the bungalow was declined. Further, the allotment is to be made by the Vice Chancellor on the recommendation of the Advisory Committee to be headed by the Registrar/Deputy Registrar (G&A), but in this case, it was not done, and the Committee was allowed to be chaired by respondent No.3 (*Professor Dr. Mushtaque Ali Jakhra*); that respondent No.5 has been done favour by the University management, which is illegal void ab initio, hence the petition.

3. The respondents, in their comments, have contested stance of the petitioner, and have pointed out that Professor Dr. Ghulam Abbas Shar

since his retirement on 03.01.2022 has been in illegal possession of the bungalow. He has been provided all the pensionary benefits by the University, but still is not vacating the said bungalow and living unauthorisedly therein. The petitioner is a proxy and has been brought forward by him to continue his illegal living, otherwise, she is a single/bachelor lady, who cannot be considered to be residing with Professor Dr. Ghulam Abbas Shar alone. The University authorities have taken all efforts to get vacant possession of the bungalow from Professor Dr. Ghulam Abbas Shar (Retired), but in vain. The allotment process in favour of respondent No.5 was made in accordance with the relevant rules and regulations governing functioning of the University. The aforesaid bungalow has been allotted to Dr. Naveed Ahmed Shaikh in accordance with the policy of Allotment and Control of Residential Colony as per University Code-1987.

4. Learned Counsel for the petitioner, in his arguments, has reiterated contents of the petition and submitted that respondent No.5 is junior to the petitioner, and is not entitled to have the said residence.

5. On the other hand, learned Counsel for the respondents has opposed this petition and submitted that there is no proof that petitioner is living in the said bungalow and in anyway related to Dr. Ghulam Abbas Shar, who was allotted the said bungalow, and, even after his retirement, is not vacating the same.

6. We have considered arguments and perused material available on record. The case of the petitioner is that she has been living in the bungalow with Dr. Ghulam Abbas Shar, her Supervisor in PhD program, with his permission since long and has spent a lot of money on its revamping. After his retirement, she made an application for allotment of the said bungalow to relevant authority of the University, which, however, the Advisory Committee for Allotment did not consider favourably and declined, and allotted the bungalow to respondent No.5 illegally, who is junior to her.

7. We have flipped through whole file and have not come across a single document confirming that petitioner, in fact, is living in the said bungalow and she is doing it with permission of Dr. Ghulam Abbas Shar, the original allottee, whose allotment after his retirement has been cancelled. She has not even filed his affidavit to verify the same fact that he had given a permission to the petitioner to live with him. But, be that as it may, any private arrangement of residence between

the petitioner and Dr. Ghulam Abbas Shar, a retired employee of the University, is not binding upon the University to follow and allot the bungalow to the petitioner in tandem, after the retirement of the latter. Allotment of the bungalow is to be made in accordance with the relevant rules and policy of the University by a relevant Committee, which, in this case, has decided it in favour of respondent No.5.

8. It is also pertinent to mention that before this petition, Dr. Ghulam Abbas Shar had filed a C. P. No. D-1016 of 2022, which was disposed of on 23.05.2023, when pensionary benefits were paid to him by the University with the observations that the University was at liberty to proceed against him for evicting him from the residence, as it was complained at the time of disposal of the petition that he was not vacating the official residence. Neither Dr. Ghulam Abbas Shar nor his Counsel had taken the plea at that time that petitioner was residing with him in the bungalow, and he had privately accommodated her to live there. The copy of said petition, which is available in the file, shows that Dr. Ghulam Abbas Shar had not even alluded to any fact of the petitioner residing with him with his permission. He had simply prayed that till his pensionary benefits were paid to him by the University, it should not take any coercive action for vacating the said bungalow from him. Meaning thereby that after the payment of pensionary benefits to him, he had no issue with vacating the bungalow.

9. The documents filed along with the objections further show that after the order was passed in aforesaid petition on 23.05.2023, the University started making efforts for getting vacant possession of the said bungalow from Professor Dr. Ghulam Abbas Shar (Retired) by issuing him various notices but to no avail, and ultimately, writing to SSP, District Khairpur for providing assistance for the said purpose. But before any action was taken, meanwhile, after five days of disposal of aforesaid petition (on 23.05.2023) on 29.05.2023, this petition was filed by the petitioner seeking direction for the allotment of the said bungalow to her and an order restraining the respondents not to dispossess her, claiming that she was residing in the said bungalow since a long time. But, as stated above, neither any document establishing her residence in the said bungalow has been brought on record by her nor the circumstances under which she came to live in the said bungalow along with Dr. Ghulam Abbas Shar, who, although learned Counsel for the petitioner claimed is petitioner's father-in-law, but nothing substantiating the same has been brought on record to

form an opinion accordingly in this regard. More so, it appears that respondent No.5 has been allotted the said bungalow by a Committee headed by Professor Dr. Mushtaque Ali Jakhrani, the Chairman of Allotment Committee, in the light of relevant rules and guidelines, and no discrimination has been done to the petitioner who has, even otherwise, failed to establish her constitutional right to reside in the said bungalow.

10. Further, we, while exercising constitutional jurisdiction, are not supposed to substitute our opinion with that of the Committee and state that the decision is outcome of some *mala fide*, not least when petitioner has failed to establish her preferential right to live in the said house over the right of respondent No.5, whose case for residence in the said bungalow has been considered favourably by the Committee. This being the position, we find the petition to be meritless and accordingly **dismiss** it along with pending applications.

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Abdul Basit