

## IN THE HIGH COURT OF SINDH, KARACHI

**Before:**

Mr. Justice Muhammad Junaid Ghaffar  
Mr. Justice Adnan-ul-Karim Memon

**C.P.No.D-95 of 2024**

**Parvez Ahmed**

Petitioner through

Mr. Malik Naeem Iqbal advocate

Respondent Nos. 1 to 2  
through

Mr. Ali Safdar Depar AAG along with  
Ms. Sahar Iftikhar, Addl. Secretary,  
Ms. Kanwal Nizam, Deputy Secretary and  
Mr. Bhora Mal, Law Officer S&GACD,  
Government of Sindh

**Date of hearing and order : 17.04.2024**

### **ORDER**

Petitioner Parvez Ahmed, is an officer of BS-20, Ex PCS Cadre, presently serving as Secretary to the Government of Sindh for the Department of Rehabilitation. It is the case of the petitioner that time and again official accommodation reserved for him had been allotted to other officers of BS-20 against his entitlement.

The learned counsel for the petitioner has submitted that Bungalow No. 18 GOR-1 Bath Island Clifton Karachi was reserved for the petitioner subject to the retirement of the officer of BS-20, who was residing there at the relevant time, which was due on 31.08.2021, however, the subject allotment was cancelled and was reserved for another officer of BS-20, which is apathy on the part of Estate Office of the Government of Sindh. Per learned counsel, the petitioner was promoted to BS-20 in the year 2020 as such he was/is entitled to allotment of Bungalow No. 2 GOR-1 Bath Island Clifton Karachi, after the retirement of Mr. Ahmed Bux Narejo on 11.01.2024 as per his entitlement. He emphasized that parallel reservation cannot be made in favor of the officer, who already holds similar official accommodation, at Bungalow No.2 Shireen Jinnah Colony Karachi, which is a discriminatory attitude on the part of respondents Nos. 1 and 2. He prayed for a direction to respondent Nos. 1 & 2 GOR-01 Bath Island Clifton Karachi as per his entitlement.

Keeping in view the ordeal of the petitioner, this Court vide order dated 27.03.2024 directed learned AAG to show us any policy or accommodation rules whereby reservation can be made in respect of Government

Accommodation, however, he has failed to show such government policy despite the strict direction. Prima facie in the absence of such reservation policy, it cannot be inferred that official accommodation can be reserved in advance and this was the reason, this Court vide order dated 18.08.2020 passed in C.P. No. D-2881 of 2020 directed the government of Sindh that in future no allotment order be made unless official accommodation is already and physically available for occupation, however, the respondent Nos. 1 and 2 defied the orders passed by this Court and went on accommodating the officers by reserving the official accommodation for them in advance without physical availability of such accommodation for occupation.

The officers and learned AAG present in Court are unable to demonstrate such a policy of reserving the official accommodation for the officers in advance despite knowing the facts that such accommodation is not available for the officers in advance. This being the legal position, respondents Nos.1 and 2, in our view, are not authorized to keep the official accommodation reserved for officials without physical availability for occupation.

In view of the above, it may be observed that there are so many government official accommodations owned by the Provincial Government that are under unlawful and unauthorized occupation as discussed supra.

In our view, the Courts are duty-bound to uphold the constitutional mandate and to maintain the salutary principles of the rule of law. To uphold such principles, it has been stated time and again by the superior Courts that all acts should be transparently done by the public functionaries after applying a 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 under the 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 out and record their dissenting notes. Unfortunately, the officers in the Estate Office of the Government of Sindh not only implemented the illegal orders but acted thereupon for their benefit/gain by moving summary for Chief Minister Sindh for allotment of Government Accommodation by reserving of Bungalows in favor of the favorites. On the aforesaid proposition, the following case laws are cited *Mst. Tasleem Akhgtar and others v Province of Sindh and others* 2023 PLC (C.S) Note 28 and *Abdul Majid Yousafani v Federation of Pakistan and others* 2013 PLC (C.S) 266.

The record reflects that the respondent department is not following the decisions of the Honorable Supreme Court on the subject issue in its letter and spirit as well as accommodation policy in case of allotment of Government accommodations and has indulged in illegal allotments, extensions, reservations, and waivers in favor of employees who are not entitled.

In our view, a more effective approach needs to be adopted and allotment must be made strictly under the law. It may be observed that because of such arbitrary and illegal exercise of discretion by the official respondents, official accommodation remains occupied by such employees who are not entitled thereto, and the employees who are legally entitled to official accommodation are deprived of such right/facility. Moreover, it unnecessary burdens the Court with issues which ought to have been decided amiably in accordance with law by the Respondents. In view of such position advance reservation of Bungalow No.2, GOR-1, Bath Island, Clifton, shall remain suspended till the next dat of hering and no allotment shall be made in respect thereof. Similarly, in the meanwhile all the allotments of official accommodation reserved for officials in advance shall be cancelled. Such compliance report be submitted on or before the next date of hearing.

Today, in response to our order dated 27.03.2024 an attempt has been made by learned AAG to place on record some correspondence/letter by the Respondents with their office instead of submitting a reply to our query. The same was without any statement from AG's office. While confronted he was not able to justify the action of Respondents as noted in our said order. Such conduct is a fit case to impose costs on AG's office; however, showing restraint for the time being AG's office is warned to be careful in furture failing which appropriate costs shall be imposed in future. Let the concerned official of the Estate Department, Governemnt of Sindh be in attendance on the next date of hearing with his explanation and responde to our orders in this matter.

In the meanwhile all the allotments of official accommodation reserved for officials in advance shall be canceled. Such compoaince report be submitted on or before the next date of hearing.

To come up on 30.04.2024.

JUDGE

JUDGE