

HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

C.P. No.D-1684 of 2024

[Aakash Ali Sagar vs. Director Common Service WAPDA and others]

Present: **Mr. Justice Zulfiqar Ali Sangi**
Mr. Justice Arbab Ali Hakro

Petitioner through : Barrister Jawad Ahmed Qureshi, Advocate
Respondent No.1 through : Mr. Muhammad Idrees Naqshbandi,
Advocates
Dates of Hearing : 16.01.2025
Date of Decision : 16.01.2025

ORDER

ARBAB ALI HAKRO, J:- Through this Constitutional Petition, the Petitioner has challenged the cancellation order dated 17.10.2024 regarding the allotment of Flat No. D-10, situated in WAPDA (Water Wing) Colony, Hyderabad ("**subject flat**"), which was allotted to him.

2. Learned counsel for the Petitioner has argued that following the allotment of the subject flat, the Petitioner has been residing there with his elderly mother and his elder brother, who assists him in caring for their mother. He further contends that Respondent No. 2 illegally issued a notice dated 15.7.2024, alleging that the Petitioner had sublet/rented out the subject flat to an outsider. In response, the Petitioner submitted a reply denying the allegations of subletting. Counsel has also argued that the Respondents unlawfully disregarded the Petitioner's reply and maliciously issued a Final Notice on 02.10.2024. The Petitioner submitted a response to this notice as well, which was also not considered by the Respondents. Ultimately, the Respondents cancelled the Petitioner's allotment through the impugned order. Additionally, it is argued that the Respondents neither took the Petitioner's replies into account nor conducted a proper inquiry before illegally cancelling the Petitioner's allotment, which is, therefore, liable to be overturned.

3. Conversely, learned counsel for Respondent No. 1 has contended that the Petitioner sublet/rented out the subject flat to an unknown individual named Noman Qureshi, who is reported to be serving as a Food Inspector, as stated by the Security Inspector, Ghulam Murtaza Khan, in a letter dated 25.11.2024. Counsel further contends that the Petitioner has violated the terms and conditions of the allotment order; therefore, the cancellation of his allotment was justified.

4. After a meticulous and scrupulous examination of the submissions proffered by both counsels and the documentary records adduced, it becomes manifestly evident that the cancellation order dated 17.10.2024, passed by the Respondent No.1, is devoid of a proper inquiry and lacks the requisite factual substantiation. Respondent No. 1 has not persuasively established that the Petitioner has sublet or rented out the subject flat to one Noman Qureshi or any other individual. The allegations of subletting are grave and carry profound implications for the Petitioner's rights; thus, it is imperative that such claims be substantiated with credible and cogent evidence. In the present case, Respondent No.1 has egregiously failed to furnish any compelling proof to bolster his assertions.

5. It is salient to note that the Petitioner's replies to the notices dated 15.7.2024 and 02.10.2024 unequivocally refuted the allegations of subletting. These responses meticulously articulated the Petitioner's position and provided a robust defence against the claims advanced by the Respondent. However, it is disconcerting that these replies were summarily disregarded by Respondent No.1, thereby reflecting a lamentable lapse in procedural fairness and due process, which Respondent No.1 was inexorably duty-bound to observe. The principle of natural justice mandates that a party must be afforded a fair opportunity to present their case and that their submissions must be scrupulously considered before any adverse action against them. The failure to conduct a thorough and exhaustive inquiry or to duly consider the Petitioner's elucidations prior to the issuance of the cancellation order constitutes a significant procedural irregularity that cannot be countenanced.

6. Moreover, the sequence of events concomitant with the issuance of the cancellation order engenders further apprehensions. Notably, the report from the security Inspector, which ostensibly purports to substantiate the Respondents' claims, is dated subsequent to the cancellation order itself. This temporal disjunction casts doubt upon the validity of the Respondents' actions and intimates that the decision to annul the allotment may have been rendered without a proper factual foundation. Such a manifest lack of due diligence undermines the integrity of the procedural framework. It accentuates the necessity for the Respondents to adhere to the principles of fair play and justice.

7. In light of these cogent considerations, we find that the cancellation of the Petitioner's allotment was not conducted in accordance with the principles of natural justice and fair play. The Respondents' actions appear arbitrary and bereft of the requisite procedural safeguards. Consequently, the impugned order dated 17.10.2024 regarding the cancellation of the allotment

of Flat No. D-10, WAPDA (Water Wing) Colony, Hyderabad, is hereby set aside. The Petitioner is thus permitted to retain possession of the subject flat, and the Respondents are directed to undertake a fresh inquiry, should they deem it necessary, in a manner consistent with the law and the terms and conditions of the allotment. This fresh inquiry must be conducted with due regard for the principles of fairness, allowing the Petitioner to present his case and ensuring that all pertinent evidence is meticulously considered before further action is taken. With these observations, the petition stands disposed of.

JUDGE

JUDGE