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HIGH COURT OF MADHYA PRADESH : JABALPUR
(Division Bench)

W.P. No.10675/2020

Vijayraghvendra Singh

-Versus-

State of M.P. and others

Shri Varun Tankha and Shri Samresh Katare, Advocates for the petitioner.

Shri Swapnil Ganguly, Deputy Advocate General for the respondent/State.

CORAM :

Hon'ble Shri Justice Sanjay Yadav, Acting Chief Justice.
Hon'ble Shri Justice Vijay Kumar Shukla, Judge.

ORDER
(Jabalpur, dtd.17.12.2020)

Per : Vijay Kumar Shukla, J.-

The present petition has been filed under Article 226 of the Constitution of India challenging the order dated 01.6.2020 passed by the respondent No.3 whereby the allotment of Government accommodation/House No. D-14, 74 Bungalows, Bhopal made in view of the petitioner has been cancelled.

2. Succinctly, the facts of the case are that the petitioner won the Katni, Vidhan Sabha Area- 91 Seat in the elections of the Legislative Assembly of the State of Madhya Pradesh which had taken place in

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the year 2018. The petitioner being a MLA was entitled to government house/accommodation by the State Government. In furtherance to the same, the petitioner was allotted House No. D-14, 74 Bungalows, Bhopal vide allotment order dated 20.3.2020. The period of allotment was co-existent with the tenure of the petitioner as MLA. However, by the impugned order, the said allotment has been cancelled without assigning any reason and the order is in violation of the judgment passed by the Apex Court in **Kranti Associates Private Limited vs. Masood Ahmed Khan and others (2010) 9 SCC 496**. Alternatively, the petitioner has also prayed a direction to provide alternative accommodation at Bhopal.

3. The respondents have filed the reply and submitted that the petitioner was allotted Quarter No. D-14, 74 Bungalows, Bhopal which comes under the General Pool Quarter and is not a Quarter which comes under the pool of Vidhan Sabha. It is further stated that even under Rule 10 of Allotment Rules, 2000, the allottee is also required to execute bond along with 2 months license fees in advance. Rule 10(9)(Kha) is clear with regard to execution of bond and deposition of 2 months license fees. If the quarter is being allotted to some Social Worker, Political Party, recognized personality thus even assuming that petitioner is having any locus to allottee under the General Pool by invoking Rule 10 then also, he has not fulfilled the Condition No. 10(9)(b) of the Rules 2000. It is

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further submitted that the petitioner is not entitled for the allotment of the quarter because the same is not under the Vidhan Sabha Pool. For the alternative prayer, the petitioner has not submitted any application for allotment of the quarter and therefore, the same could not be considered.

4. The aforesaid facts have been disputed by the petitioner by way of filing rejoinder.

5. In terms of Rule 13, Chapter-4 of Government Allotment Rules, a plain reading of Rule 13 demonstrate that the houses falling under the Vidhan Sabha Pool can be exchanged with the houses under the General Pool. The petitioner has further disputed the non-execution of the order dated 20.3.2020. It is submitted that the petitioner has taken possession of the said house on 20.5.2020. The delay in taking possession of the said bungalow was only on account of nation-wide lockdown due to the spread of the Pandemic. The petitioner also submitted that he has already deposited a sum of Rs.36,000/- as rent of the accommodation on 12.11.2020.

6. In the additional reply, the learned counsel for the State insisted that as per Rule 10(9)(Kha), before taking the possession, agreement under proforma 4 is required to be executed within two months of advance license fees. In the present case, no order from the office of Director, Estate (Sampada Sanchnalay) Bhopal has been issued. However, when a query was made by this Court

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that whether procedure was insisted in respect of other similarly situated allottees, learned counsel for the State stated that he has no further instruction in this regard.

7. We have heard learned counsel for the parties and perused the impugned order. The impugned order reads as under :-

“मध्यप्रदेश शासन
गृह (सामान्य) विभाग
मंत्रालय वल्लभ भवन भोपाल
// आदेश //

भोपाल दिनांक 01/06/2020

क्रमांक 792/1240/2020/दो-ए(3) राज्य शासन एतत् द्वारा माननीय विधायक श्री विजयराघवेन्द्र सिंह जिला कटनी विधानसभा क्षेत्र 91 को आवंटित शासकीय आवास क्रमांक डी-1474 बंगला भोपाल तत्काल प्रभाव से निरस्त किया जाता है।

मध्यप्रदेश के राज्यपाल के नाम से
तथा आदेशानुसार
सही/-

(वंदना शर्मा)
उप सचिव

म0प्र0 शासन गृह विभाग

पृ0क्र0 793/1240/2020/दोए/(3)

भोपाल दिनांक 1.6.2020

प्रतिलिपि :-

1. प्रमुख सचिव मुख्यमंत्री सचिवालय म0प्र0 भोपाल ।
2. प्रमुख सचिव सामान्य प्रशासन विभाग मंत्रालय भोपाल ।
3. प्रमुख सचिव लोक निर्माण विभाग मंत्रालय भोपाल ।
4. प्रमुख सचिव राजस्व विभाग मंत्रालय भोपाल ।
5. प्रमुख सचिव म0प्र0 विधान सभा सचिवालय भोपाल ।
6. संचालक संपदा संचालनालय म0प्र0 भोपाल ।
7. कार्यपालन यंत्री लोक निर्माण विभाग नया भोपाल संभाग भोपाल को नियमानुसार कार्यवाही एवं किराया वसूली हेतु।
8. माननीय विधायक श्री विजयराघवेन्द्र सिंह जिला कटनी विधानसभा क्षेत्र 91 को शासकीय आवास क्रमांक डी-1474 बंगला भोपाल ।
9. फोल्डर प्रति

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की ओर सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

सही / -
उप सचिव
म0प्र0 शासन गृह विभाग"

8. Apparently, the impugned order does not record any reason and the allotment of accommodation in favour of the petitioner has been cancelled with immediate effect without assigning any reason. Further, no notice was issued before passing of the order of cancellation. In the case of **Kranti Associates (supra)** the Apex Court has clearly laid down that a quasi judicial authority must record reasons in support of its conclusions. Para-47 of the judgment is reproduced as under :-

“Summarizing the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.

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(f) Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior Courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to

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broader scrutiny. (See David Shapiro in Defence of Judicial Candor).

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Toriza v. Spain (1994) 19 EHRR, at 562 para 29 and Anya vs. University of Oxford, wherein the Court referred to [Article 6](#) of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".

9. When the impugned order is tested on the anvil of the aforesaid, we find that the impugned order is arbitrary as no reasons have been recorded. Accordingly. The impugned order dated 01.6.2020 Annexure P/1 is quashed.

10. The writ petition is allowed.

(Sanjay Yadav)
Acting Chief Justice

(Vijay Kumar Shukla)
Judge