

**HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU**

WP(C) PIL No. 17/2020
CM No. 3100/2020
(Through Video Conferencing)

Prof. S.K. Bhalla ...Petitioner(s)

Through:- Mr. S. S. Ahmed, Advocate

v/s

Union Territory of J&K and othersRespondent(s)

Through:- Mr. Aseem Sawhney, AAG

**Coram: HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE**

ORDER

01. The issue raised in the present petition filed in Public Interest is with regard to occupation of the Government houses by the former Chief Minister/ Ministers/MLAs/MLCs/Political Persons/MPs/Bureaucrats and certain private persons as well. Some have been provided with security cover besides other benefits. The aforesaid system is going on for years together despite categoric judgments of Hon'ble the Supreme Court in **(2018) 6 SCC 1** titled as **Lok Prahari through its General Secretary v. The State of Uttar Pradesh & others** and the Division Bench of this Court in **2019 (5) JKJ[HC] 190** titled as **Thakur Randhir Singh v. State of J&K and others**, in terms of which Government houses cannot be allotted to these persons

02. On 05.12.2020, this Court had observed as under:

“16. Mr. Aseem Sawhney, Id. AAG has brought to our attention the provisions of the Jammu and Kashmir Estates Department (Allotment of Government Accommodation) Regulations, 2004. These regulations do not enable any person to continue to occupy official accommodation after they cease to be in office.

17. We shall consider passing appropriate orders regarding recovery of the charges for the unauthorized occupancy, electricity, water, elaborate security services necessitated at these offices/residences; expenses incurred on the man power which had been deployed at these official accommodations.

18. The respondents shall file a separate tabulation giving the names of the person in occupation; property and also the charges of maintenance, repairs, white-washing which have been incurred on each of these premises after these officers have demitted office.

19. Public money has been expended in violation of any possible tenet of law by these unauthorized occupants. The accommodation is badly needed for occupation by serving officers. This is a completely intolerable situation.

20. All the details which we have sought above shall be furnished on affidavit within a period of two weeks from today.

21. Mr. B. A. Dar, Sr. AAG and Mr. Aseem Sawhney, Sr. AAG shall provide complete details of all cases wherein the occupancy of govt. property has been protected. The details shall be filed on our record and also furnished to the Registrar Judicials who shall ensure that all these petitions are also listed along with present writ petition after obtaining orders on the administrative side.

22. The respondents shall serve a copy a copy of the report dated 2nd October 2020 and copy of this order on all the

persons who are in illegal occupation of the government accommodation”.

03. Compliance report dated 21.12.2020 has been filed by the Director Estates, Jammu and Kashmir. Along with that, certain Annexures have been attached.

04. It would be apt to notice certain glaring details of how the public properties and public money is being misutilized. Annexure-1 provides for statement of monthly security expenses being incurred on the properties, which are under continuous illegal occupation of political persons after demitting office. The list makes a strange reading. A ministerial bungalow has been provided to the family of Late G. M. Shah, Ex- Chief Minister at Jammu, who is stated to be the Chief Minister in Jammu and Kashmir from 1984-86. As per the statement, there is no security personnel provided. It shows that there is no security threat to his family. It was pointed out at the time of hearing by the learned counsel for the respondents that family of late G. M. Shah, ex-Chief Minister owns a house at Srinagar, where even security has been provided.

05. The question arises as to where was the need to allot house to the family of late G. M. Shah, ex-Chief Minister at Jammu, when the family owns accommodation at Srinagar and is residing there.

06. Besides this, Annexure-I contains details of monthly security expenses being incurred by the government on 72 persons who have been allotted government accommodation at Jammu and Srinagar. The details of the accommodations allotted to these types of persons in other cities in

Jammu and Kashmir is not forthcoming. The aforesaid information is required to be furnished before the next date of hearing.

07. Some of the names, as is evident from the list, are merely mentioned as political workers. Some are even Advocates or ex-Public Prosecutors. As to under what capacity they have been allotted the government accommodations is not forthcoming on record as there is no justification available.

08. In the aforesaid list, the names of the such persons are as under:

S.No	Name of the occupants	Name of the accommodation/quarter/flat	Monthly security expenses
1	Tariq Ahmad Keen, Political Person	Qtr. No. 69-L Talab Tillo	Nil
2	Mohd Sultan Mandloo, Political Person	Qtr. No. 6-H5 Panjtirthi	Nil
3	Smt. Shilpi Verma, Political Person	Qtr. No. 1-K Company Bagh	Nil
4	Mtr Hasina Wd/o Late Sh. Ghulam Moi-ud-din Kuchay, Political Person	Qtr. No. 145-TSK	Nil
5	Ch. Mohd Shabir, Advocate	Qtr. No. 572-Toph Sherkhania	Nil
6	Ajaz Ahmed Tak, Public Prosecutor	Flat No. 303-EP, Wazarat Road, Jammu	Nil
7.	Mr. Sonallah Lone, Political Person	Flat No. 2-1 Tulsibagh	Nil
8	Mr. Nazir Ahmad Malik, Political Person	Flat No.1-L, tulsibagh	Nil
9	Mr. S. S. Channi, Political Person	Flat No. 2-O Tulsibagh	Nil
10	Ms. Parveena Lone, Political Person	Flat No. 3-Q Tulsibagh	Nil
11	Mr. Maqsood Anderabi, Political Person	Flat No. 7-T, Tulsibagh	Nil
12	Mr. Mohammad Yousuf Bhat, Political Person	Flat No. 10-T, Tulsibagh	Nil
13	Mr. Ghulam Mohammad Sheikh, Political Person	Flat No. 11-T, Tulsibagh	Nil
14	Mr. Mushtaq Ahmad Tantray, Political Person	Qtr. No. J-26, Jawahar Nagar	Nil
15	Mr. Reyaz Ahmad Mir, Political Person	Flat No. 02-F, Jawahar Nagar	Nil
16	Mr. Javid Ahmad Mir, Advocate/Political Person	Flat No. 5-D, S. F.Road	Nil

09. From the aforesaid list, it is evident that by providing security to former Ministers/MLAs/MLCs in nine cases only monthly expenses of ₹ 32,44,713/- is being made at Jammu and Srinagar.

10. Along with aforesaid status report, Annexure R-II contains details of the pending arrears of electricity and water bills against the occupants of the government accommodation. All the 72 allottees of the government accommodation, to which apparently they don't have any right in view of the judgment of Hon'ble the Supreme Court, there are lakhs of rupees due on account of electricity and water charges. Total amount due from them is ₹56,89,524.00. Some of the glaring examples are noticed herein below:

S. No.	Name of the occupant	Name of the accommodation/quarter/flat	Outstanding on account of electricity charge (Figure in Rs.)	Outstanding on account of water charges. (Figure in Rs.)	Total
1	Family of Late Sh. G. M. Shah, Ex-CM	Bungalow No. 11 Spl. Gandhi Nagar	2,22,926.00	16437.00	2,39,363.00
2	Choudhary Lal Singh Former Minister	Bungalow No.2- Gandhi Nagar	1,36,015.00	45140.00	1,81,155.00
3	Sh. Kavinder Gupta, Former Dy CM	Bungalow No.4-Spl. Gandhi Nagar	7,50,905.00	18754.00	7,69,659.00
4	Sh. Sunil Sharma, Former Minister	Quarter No. 14-Spl. Gandhi Nagar.	3,64,086.00	9377.00	3,73,463.00
5	Sh. K. B. Aggarwal, Ex-Chairperson	Qtr. No. 8 Spl. Gandhi Nagar	4,27,391.00	4515.00	4,31,906.00
6	Mr. Gh. Nabi Lone (Hanjoora), Ex-MLA	Min. Qrt.5, Tulsi Bagh	2,55,349.00	5441.00	2,60,790.00
7	Mr. Nazir Ahmad Khan, Ex-Dy. Speaker	T-Qrt. No.18, Tulsi Bagh	2,47,265.00	5441.00	2,52,706.00

8	Mr. M.S. Pandithpuri Ex-MLA	Flat No. 7.S Tulsi Bagh	98,883.00	5441.00	1,04,324.00
9	Mr. Abdul Gani Vakil, Ex-MLA	T-Quarter No. 17 Tulsi Bagh	5,83,003.00	5441.00	5,88,444.00
10	Mr. Nazir Ahmad Malik, Political person	Flat No.1-L Tulsi Bagh	1,52,969.00	5441.00	1,58,410.00
11	Mr. Zahid Hussain Jan, District President Congress	Flat No. 4-L, Tulsi Bagh	3,26,183.00	5441.00	3,31,624.00
12	Mr. S. S. Channi, Political person	Flat No. 2-Q, Tulsibagh	1,08,311.00	5441.00	1,13,752.00
13	Mr. Ajaz Ahmad Mir, Ex-MLA	Quarter No. J-11 Jawahar Nagar	2,37,821.00	5441.00	2,43,262.00
14	Mr. Bashir Ahmad Dar, Ex-MLA	Quarter No. J-18, Jawahar Nagar	98,485.00	5441.00	1,03,926.00
16	Mr. Yasir Reshi Ex- MLC	Quarter No. J-61 Jawahar Nagar	2,52,148.00	5441.00	2,57,589.00
17	Raja Manzoor, Ex-MLA	Flat No. 6-A Barzulla	3,62,000.00	5441.00	3,67,441.00

11. Annexure R-III with the status report shows the details of farash/servant/Gardner/Supervisor, which have been provided at the residence of the 72 persons who have been allotted accommodation and the monthly expenses incurred by the government in that regard. The total monthly expenses incurred on that account for 72 persons is ₹ 7,93,049/-. The only explanation given for providing servants at the expense of the government is that the government accommodation has to be maintained by it at its expense, hence the farash/ servant/ Gardner/ Supervisor have been provided. The argument apparently is misconceived as under law or under any rules, no such servants can be provided to a person who is not a government employee or otherwise entitled to.

12. Annexure-IV annexed with the status report is information pertaining to the rent due against the occupants of the government

accommodation besides, the expenses incurred on its renovation and maintenance. To name few against whom lacs of rupees are due on account of rent but still they are allowed to occupy the government accommodation, the details are as under:-

S. No	Name of the occupant.	Name of the accommodation/quarter/flat	Pending rent dues till date. (Figure in Rs.)	Expenses on account of maintenance including repair/renovation/white washing etc. (figure in Rs.)
1	Sh. Sunil Sharma, Former Minister	Quarter No. 14-Spl. Gandhi Nagar.	2,88,860.00	2,70,000
2	Shri. K.B. Aggarwal, Ex-Chairperson.	Qtr. No. 8-Spl. Gandhi Nagar	1,60,046.00	2,80,000
3	Mr. Gh. Nabi Lone (Hanjoora) Ex-MLA	Min. Qtr. 5, Tulsi Bagh	2,55,349.00	Nil
4	Mr. Abdul Gani Vakil, Ex-MLC	T-Quarter No. 17 Tulsi Bagh	5,25,825.00	Nil
5	Mr. Nazir Ahmad Malik, Political person.	Flat No. 1-L Tulsi Bagh	1,85,250.00	Nil
6	Mr. Zahid Hussain Jan District President Congress	Flat No. 4-L Tulsi Bagh	1,77,330.00	Nil
7	Mr. S.S. Channi, Political person	Flat No. 2-O Tulsi Bagh	3,01,050.00	Nil
8	Ms. Parveena Lone, Political person	Flat No. 3-Q Tulsi Bagh	2,88,524.00	50,000
9	Mr. Mushtaq Ahmad Tantray, Political person	Qtr. No. J-26, Jawahar Nagar.	2,56,600.00	3,30,000
10	Mr. Mohammad Amin Bhat, Ex-MLA	Qtr. No. J-64 Jawahar Nagar	1,33,840.00	1,21,000

11	Mr. Reyaz Ahmad Mir, Political person	Flat No. 02-F Jawahar Nagar	3,80,210.00	90,000
12	Mr. Mohammand Abbas Ex-MLA	Flat No. 15-F Jawahar Nagar	1,49,569.00	Nil
13	Mr. Javid Ahmad Mir, Advocate/ political person	Flat No. 5-D S.F. Road	2,23,480.00	Nil
14	Mr. Rafi Ahmad Mir Ex-MLA	T-Qrt. No. 07 Tulsi Bagh	1,43,238.00	18,000

13. Otherwise, the total amount due on account of rent from occupants of these houses is ₹ 55,70,535/-. Besides this, a sum of ₹ 78,71,000/- has been spent by the Government on repair and maintenance of the houses in possession of the aforesaid persons.

14. In the case of Abdul Rahim Rather, ex-minister it has been stated that a private house was hired at a monthly rent of ₹ 43,000/-, which was in his occupation, however, the same was de-hired vide order dated 23.03.2018. However, he is still in possession of the house and sum of ₹15,48,000/- is due from him towards the landlord.

15. Along with compliance report dated 17.12.2020 filed by Deputy Director Estates Jammu, list of cases pending before Jammu Bench of this Court filed by the occupants of the government accommodation, has been furnished. The cases pertain to the year 2005 onwards. Though, it is claimed in the aforesaid statement that objections in the aforesaid petitions have been filed and the arguments are to be heard.

16. On verification of the aforesaid information from the website of the High Court, it is evident that two of the petitions bearing OWP No.

339/2005 and OWP No. 1559/2011 have already been decided. In two petitions bearing OWP No. 1534/2010 and OWP No. 1120/2017, no date of hearing has been fixed. In other cases, there are dates fixed. All the aforesaid cases pertaining to eviction of the occupants of government accommodation are directed to be listed along with present petition on the next date of hearing. The counsels for the parties be informed about the change of date of hearing by the Registry. The same may be notified in the cause list.

17. Mr. Aseem Sawhney, learned AAG submitted that after the process of DDC elections are over, meeting of Security Review Committee will be held to review the security provided to the political or private persons and appropriate action shall be taken in terms of the advice received.

18. He further submitted that wherever required, action shall be taken for eviction of the occupants of the government accommodation as per the rules and the judgments of Hon'ble the Supreme Court in Lok Prahari's case (supra) and Division Bench of this Court in Thakur Randhir Singh's case (supra).

19. On or before the next date of hearing, this Court be apprised of the Government accommodation in possession of persons other than Government employees or the persons entitled to as per Rules at places other than Jammu and Srinagar, the steps taken to evict them, recover arrears of rent, electricity and water dues. The Court be also apprised of the rules or regulations under which staff has been provided to the aforesaid 72 persons at the state expenses without being entitled to the same. It also needs to be

explained as to why the aforesaid amount be not recovered from those persons.

20. The concerned departments, who are managing the Governmental residential accommodations, are directed to upload the details of all such accommodations in the Union Territory of J&K on the website of the department including the details of the persons in occupation thereof. Further specifying whether the person is a serving government employee, retired or a political person.

21. Adjourned to 18.02.2021.

Jammu
22.12.2020
Vijay

