

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.1112 OF 2019

DISTRICT : MUMBAI

1. Shri Kiran Babubhai Solanki.)
Aged : 28 Yrs, Working as Sweeper)
(Class-IV post) posted at in the)
Office of Additional Commissioner of)
Police, Bandra (W), Mumbai and)
Residing at Room No.7, Building No.)
A-4, Worli Police Camp, Worli,)
Mumbai – 400 030.)
2. Smt. Chanchal B. Solanki.)
Age : 63 Yrs, Occu.” Retired from)
the post of Sweeper (Class-IV post),)
R/o. As above.)
3. Shri Sanjay P. Walmiki.)
Age : 29 Yrs, Working as Sweeper)
(Class-IV post), posted at in the)
Office of Paydhuni Police Station,)
Mumbai and residing at Room No.16,)
Building No.A-4, Worli Police Camp,)
Mumbai – 400 030.)
4. Smt. Munni Prempal Walmiki.)
Age : 57 Yrs, Occu.: Housewife,)
R/o. As above.)...**Applicant**

Versus

1. The Commissioner of Police.)
Mumbai, having office at Mumbai)
Police Commissionerate, L.T. Marg,)
Opp. Crawford Market, Fort,)
Mumbai – 400 001.)
2. The State of Maharashtra.)
Through Addl. Chief Secretary,)
Home Department, Mantralaya,)
Mumbai – 400 032.)

3. The Senior Police Inspector.)
 Worli Police Station, Worli,)
 Mumbai – 400 030.)...**Respondents**

Mr. A.V. Bandiwadekar, Advocate for Applicant.

Mr. A.J. Chougule, Presenting Officer for Respondents.

CORAM : A.P. KURHEKAR, MEMBER-J

DATE : 02.03.2022

JUDGMENT

1. The Applicants have challenged the notices of eviction dated 15.11.2019 issued by Respondent No.3 – Senior Police Inspector, Worli Police Station thereby directing them to vacate the quarter on or before 19.11.2019, invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

2. In nutshell, the facts giving rise to this application are as under :-

Room No.7, A-4, Worli Police Camp, Bombay was allotted to Applicant No.2 – Smt. Chanchal Babu Solanki while she was serving as Sweeper in Police Department. She retired on 30.11.2016. Even after retirement, she continued to be in possession of service quarter. The Applicant No.1 – Kiran Babu Solanki (son of Applicant No.2) was appointed as Sweeper in Police Department on compassionate ground on 24.07.2017. Thereafter, he applied to transfer the quarter in his name on the basis of G.R. dated 10.11.2015 issued by Social Justice and Special Assistance Department which *inter-alia* provides for transfer of quarter where heir of deceased Government servant is appointed on compassionate ground. However, it was kept pending. Suddenly, Respondent No.3 – Senior P.I, Worli Police Station issued notice of eviction dated 15.11.2019 thereby directing Applicant Nos. 1 & 2 to

vacate the quarter on or before 19.11.2019, which is challenged in the present O.A.

3. Insofar as Applicant Nos. 3 and 4 are concerned, Room No.16, A-4, Worli Police Camp was allotted to Prempal Walmiki (father of Applicant No.3) while he was in service as Sweeper. He died on 10.09.2013. Even after his death, the Applicant Nos. 3 & 4 (widow of deceased) continued in possession of quarter. The Applicant No.3 was appointed as Sweeper in Police Department on 15.03.2018 on compassionate ground. Thereafter, he applied for transfer of service quarter in his name in view of Circular dated 10.11.2015 referred to above. However, no further action of transfer was taken in this behalf. Suddenly, Respondent No.3 – Sr. P.I, Worli Police Station issued notice dated 15.11.2019 directing Applicant Nos.3 and 4 to vacate the quarter on or before 19.11.2019.

4. It is on the above background, Applicants have jointly filed this O.A. before this Tribunal on 20.11.2019 challenging notices dated 15.11.2019. In O.A, interim relief was sought *inter-alia* contending that on 19.11.2019 in afternoon, Respondent No.3 highhandedly dispossessed the Applicant by throwing their belongings out of quarter and prayed for mandatory injunction for restoration of possession. In support of claim, they also filed photograph showing their dispossession. Whereas it was contended by learned P.O. that the quarters are already locked and sealed. Therefore, in view of legal questions about the legality of notices being raised in the O.A, the Tribunal has passed order on 20.11.2019 directing the parties to maintain status quo as on the day of passing the order and notices were issued.

5. The Respondents resisted the O.A. by filing Affidavit-in-reply *inter-alia* contending that the possession of the Applicants over service quarter was unauthorized and they were liable to be evicted since there was no transfer of service quarter in their name. The Respondents sought to contend that the Government by Notification dated 03.12.1954 (Page

No.119 of Paper Book) empowered Deputy Commissioner of Police (Headquarter), Greater Bombay to exercise the powers under Section 31(2) of Maharashtra Police Act, 1951 and in exercise of that powers, the Deputy Commissioner of Police (Headquarter), Greater Bombay had delegated authority by letter dated 24.08.2015 (Page 196 of P.B.) and 18.05.2018 (Page 121 of P.B.) to Respondent No.3 – Sr.P.I, Worli Police Station for eviction of the Applicants. It is in pursuance of it, the Respondent No.3 issued notices dated 15.11.2019 for eviction of the Applicants.

6. Shri Bandiwadekar, learned Advocate for the Applicant sought to assail the impugned notices *inter-alia* vehemently contending that the impugned action purportedly taken under Section 31(2) of Maharashtra Police Act, 1951 is totally bad in law in view of enforcement of 'Maharashtra Government Premises Eviction Act, 1956' (hereinafter referred to as 'Eviction Act 1956' for brevity). He strenuously urged that Respondent No.3 was required to initiate action for eviction through competent authority as per the procedure laid down in 'Eviction Act 1956'. However, Respondents highhandedly tried to dispossess the Applicants without following due process of law. In this behalf, he referred to certain Notifications issued by Government and also placed reliance on the Judgment rendered by this Tribunal in **O.A.No.14/2012 (Smt. Prama S. Jiman Vs. Commissioner of Police) decided on 07.03.2012** where in similar situation, the Tribunal held that the provisions of 'Eviction Act 1956' would prevail over the provisions of Maharashtra Police Act, 1951 and action of eviction under the provisions of Maharashtra Police Act is bad in law.

7. Per contra, Shri A.J. Chougule, learned Presenting Officer sought to justify the impugned action *inter-alia* contending that the quarter in question being belonging to Police Department, notices of eviction were rightly issued invoking Section 31(2) of Maharashtra Police Act, 1951. According to him, the possession of Applicants was totally unauthorized

since Applicant cannot claim continuation of quarter as of right after the service tenure of deceased Government servant or retirement of Government servant to whom quarter in question was allotted. He further canvassed that allotment of quarter is not service condition of Applicant Nos.2 and 3, and therefore, the impugned action of eviction cannot be challenged before this Tribunal. In this behalf, he sought to place reliance on the decision of **CAT, Principal Bench, New Delhi in O.A.No.159/2015 (Anil Kumar Vs. The Secretary, President's Secretariat, New Delhi) decided on 30.11.2015.**

8. In view of submissions advanced at the Bar, the issue posed for consideration is whether impugned action of eviction in exercising powers under Section 31(2) of Maharashtra Police Act, 1951 is legal and valid and answer is in emphatic negative.

9. Indisputably, quarter in question was allotted to the mother of Applicant No.1 and father of Applicant No.3 while they were in service as Sweeper. The mother of Applicant No.2 retired from service on 30.11.2016 and father of Applicant No.3 died while in service on 10.09.2013. Apart, admittedly thereafter, Applicant No.1 was appointed as Sweeper by order dated 24.07.2017 and by application dated 22.05.2019 applied for transfer of service quarter in his name in view of G.R. dated 10.11.2015. Whereas, admittedly, Applicant No.3 was appointed on the post of Sweeper on 15.03.2018 on compassionate ground, and thereafter, applied on 06.06.2018 for transfer of service quarter in his name in view of G.R. dated 10.11.2015, which is at Page No.113 of P.B. G.R. dated 10.11.2015 inter-alia provides for procedure to be followed for appointment on the heirs of Sweeper on compassionate ground in view of recommendation made by Lad-Page Committee. Clause No.11 of G.R. is material, which is as under :-

“११. सफाई कर्मचारी/कामगार ह्यात असताना त्यास वाटप करण्यात आलेले प्रशासकीय निवासस्थान त्याच्या जागेवर वारसा पद्धतीने नियुक्ती दिलेल्या वारसाच्या नावे वाटप करून त्याच्याकडून नियमानुसार निवासस्थानाचे भाडे व दुरुस्ती आणि देखभालीचा खर्च वसूल करण्यात यावा. मात्र कोणत्याही वारसास वारसा हक्काने शासकीय निवासस्थानावर कायमचा हक्क

सांगता येणार नाही किंवा अशा प्रकारची मागणी सुद्धा करता येणार नाही. तशा प्रकारची मागणी केल्यास त्याची सेवा तात्काळ संपुष्टात आणण्याची कार्यवाही करण्यात येईल.”

10. True, as pointed out by learned P.O. subsequently Government had issued another G.R. dated 11.03.2016 superseding G.R. dated 10.11.2015. However, the perusal of G.R. dated 11.03.2016 reveals that the said G.R. was issued by way of clarification in view of the issue raised by Hon'ble High Court, Bench at Nagpur in Writ Petition No.6155/2014 about the necessity of continuation of implementing recommendation of Lad-Page Committee. The Government had filed Affidavit in the said Writ Petition stating that the recommendation of Lad-Page Committee deserves to be continued further for appointment on compassionate ground. It is on this background, directions were given to the Government to take policy decision and in pursuance of it, by way of clarification, G.R. dated 11.03.2016 was issued thereby making it clear that the scheme of appointment on compassionate ground in view of recommendation made by Lad-Page Committee has to be continued in future also. True, there is no reference about continuation of service quarter in the name of heir of deceased Government servant in G.R. dated 11.03.2016 which was in G.R. dated 11.03.2015. Here material to note that mother of Applicant No.1 viz. Chanchal (Applicant No.2) retired on 30.11.2016 whereas Prempal Walmiki (father of Applicant No.3 died on 10.09.2013. As such, insofar as Applicant Nos.3 and 4 are concerned at the time of death of father of Applicant No.3, G.R. dated 10.11.2015 was in force. Be that as it may, even assuming that Clause No.11 of G.R. dated 10.11.2015 ceased to be in operation in view of issuance of G.R. dated 11.03.2016, the main issue involved in the present O.A. is whether impugned action is in consonance with law.

11. At this juncture, it would be apposite to reproduce Section 31 of Maharashtra Police Act, which is as under :-

“31. Occupation of and liability to vacate premises provided for Police Officers.

(1) Any Police Officer occupying any premises provided by the State Government for his residence –

(a) shall occupy the same subject to such conditions and terms as may generally or in special cases, be specified by the State Government; and

(b) shall, notwithstanding anything contained in any law for the time being in force, vacate the same on his ceasing to be a Police Officer or whenever the State Government or any officer authorized by the State Government in this behalf thinks it necessary and expedient to require him to do so.

(2) If any person who is bound or required under sub-section (1) to vacate any premises fails to do so, the State Government or the officer authorized in this behalf by the State Government may order such person to vacate the premises and may direct any Police Officer with such assistance as may be necessary to enter upon the premises and remove therefrom any person found therein and to take possession of the premises and deliver the same to any person specified in the direction.”

12. Whereas, material to note ‘Eviction Act 1956’ has been enacted after the enactment of Maharashtra Police Act, 1951. The ‘Eviction Act 1956’ provides complete mechanism and procedure for eviction of persons from Government premises. The perusal of the scheme and provisions of ‘Eviction Act 1956’ reveals that the powers of eviction are conferred upon the competent authority and competent authority means an Officer appointed as competent authority under Section 3 of the said Act. Section 3 of ‘Eviction Act 1956’ is as under :-

“3. The State Government may, by notification in the Official Gazette, appoint an officer who is holding or has held an office, which in its opinion is not lower in rank than that of a Deputy Collector or an Executive Engineer, to be the competent authority for carrying out the purposes of this Act [in such area, or in respect of such premises or class of premises in any area, as may be specified in the notification, and more than one officer may be appointed as competent authority in the same area in respect of different premises or different classes of premises].

13. Whereas Section 4 of ‘Eviction Act 1956’ is as under :-

4. If the competent authority is satisfied -

(a) that the person authorised to occupy any Government premises, has whether before or after the commencement of this Act,-

(i) not paid rent lawfully due from him in respect of such premises for a period of more than two months, or

[(ii) sub-let the whole or any part of such premises, without the permission of the State Government, or the competent authority, or the officer, who has or in whose name the premises are taken on behalf of the State Government, or any other officer designated by the State Government in this behalf, or]

[(iia) committed, or is committing, such acts of waste as are likely to diminish materially the value, or impair substantially the utility, of the premises, or]

(iii) otherwise acted in contravention of any of the terms, express or implied under which he is authorised to occupy such premises, or

(b) that any person is in unauthorised occupation of any Government premises, or

(c) that any Government premises named are required for any other Government purposes, the competent authority may, by notice served (i) by post, or (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (iii) in such other manner as may be prescribed, order that that person as well as any other person who may be occupation of the whole or any part of the premise, shall vacate them within one month of the date of the service of the notice.

[(2) Before an order under sub-section (1) is made against any person the competent authority shall issue in the manner hereinafter provided a notice in writing calling upon all persons concerned to show cause why an order of eviction should not be made.

The notice shall-

(a) specify the ground on which the order of eviction is proposed to be made; and

(b) require all persons concerned, that is to say, all persons who are, or may be, in occupation of, or claim interest in, the Government premises, to show cause, if any, against the proposed order, on or before such date as is specified in the notice.

If such person makes an application to the competent authority for extension of the period specified in the notice, the competent authority may grant the same on such terms as to payment and recovery of the amount claimed in the notice, as it deems fit.

Any written statement put in by any person and documents produced in pursuance of the notice shall be filed with the record of the case and such person shall be entitled to appear before the officer proceeding in this connection by advocate, attorney or pleader.

The notice to be served under this sub-section shall be served by having it affixed on the outer door or on some conspicuous part of the premises, and in such manner as may be prescribed; and thereupon the notice shall be deemed to have been duly given to all persons concerned.]

(3) If any person refuses or fails to comply with an order made under subsection (1), the competent authority may evict that person from, and take possession of, the premises and may for that purpose use such force as may be necessary.

(4) The [competent authority] may, after giving fourteen clear days' notice to the person from whom possession of the Government premises has been taken under sub-section (3) and after publishing such notice in the *Official Gazette* and in at least one newspaper having circulation in the locality, remove or cause to be removed or dispose of by public auction any property remaining on such premises. Such notice shall be served in the manner provided for service of notice under sub-section (1).

(5) Where the property is sold under sub-section (4), the sale proceeds shall, after deducting the expenses of sale, be paid to such person or persons as may appear to the [competent authority] to be entitled to the same:

[Provided that where the competent authority is unable to decide as to the person or persons to whom the balance of the amount is payable or as to the appointment of the same, he shall refer such dispute to a civil court of competent jurisdiction, and the decision of the court thereon shall be final.]

(6) If a person who has been ordered to vacate any Government premises for the reasons specified in sub-clause (i) or (iii) of clause (a) of sub-section (1) within one month of the date service of the notice or such longer time as the competent authority may allow, pays to the said competent authority the rent in arrears or carries out or otherwise complies with the terms contravened by him to the satisfaction of the said competent authority, as the case may be, the said competent authority shall in lieu of evicting such person under sub-section (3), cancel its order made under sub-section (1) and thereupon such person shall hold the premises on the same terms on which he held them immediately before such notice was served on him.

Explanation.- For the purposes of this section and section 5, the expression "unauthorised occupation" in relation to any person authorised to occupy any Government premises, includes the continuance in occupation by him or by any person claiming through or

under him of the premises after the authority under which he was allowed to occupy the premises has been duly determined.”

14. The perusal of provisions of ‘Eviction Act 1956’ thus reveals that under Section 4 of the said Act, the detailed procedure contemplated for passing eviction order by competent authority is laid down. It contemplates that the competent authority shall issue show cause notice why an order of eviction should not be made and the said show cause notice shall also specify the grounds on which order of eviction is proposed to be issued. Where a person is in unauthorized occupation in Government premises, it is one of the ground for eviction as enumerated in Section 4(1)(b) of ‘Eviction of 1956’. The person against whom action is proposed is entitled to file defence statement along with documents and it is only after hearing such person, the competent authority is required to pass order of eviction after considering material before him. The order passed by competent authority is appealable before District Judge and in case of city of Bombay before the Principal Judge of City Civil Court. Suffice to say, ‘Eviction Act 1956’ provides complete mechanism and procedure for eviction of a person who is in unauthorized possession of Government premises and the order of eviction is required to be passed after giving reasonable opportunity of hearing to the concerned Government servant.

15. Whereas, on the other hand, the provision contained in Section 31 of Maharashtra Police Act gives obsolete and arbitrary powers to evict a person from Government premises since it has no provision of opportunity of hearing to the concerned. As such, conferment of absolute power of eviction can be said antithesis to fair just and reasonable procedure. It is cardinal principle of law that nobody should be condemned unheard. Be that as it may, reverting back to the issue as to whether Respondents were required to follow the procedure laid down in ‘Eviction Act 1956’ and its applicability to the Police premises, it would be apposite to refer certain Notifications issued by Government after the enforcement and implementation of ‘Eviction Act 1956’.

16. In this behalf, material to note that Government of Maharashtra had issued Notification about the 'Eviction Act 1956' and appointed first day of March, 1960 to be date on which said Act shall come in force in whole state of Bombay (Maharashtra). The Notification to that effect is as under :-

**“G.N.L. & S.W.D. No.INT.1559-M, dated 14th January, 1960
(B.G.Pt.IV-B, p. 105)**

S.1(12) – In exercise of the powers conferred by sub-section (2) of section 1 of the Bombay Government Premises (Eviction) (Extension and Amendment) Act, 1959 (Bom. LXII of 1959), the Government of Bombay hereby appoints the 1st day of March 1960 to be the date on which the said Act shall come into force in the whole of the State of Bombay.”

17. Furthermore, Notification dated 21.08.1958 and Notification dated 20.12.1958 about declaration of competent authority is as under :-

**“G.N.L. & S.W.D. No.DDC.5058, dated 21st August, 1958
(B.G.Pt.IV-B, p. 847)**

S. 3 – In exercise of the powers conferred by section 3 of the Bombay Government Premises (Eviction) Act, 1955 (Bom. II of 1956), the Government of Bombay hereby appoints the Deputy Commissioner of Police (Headquarter), Greater Bombay to be the Competent Authority for carrying out the purposes of the said Act in the area comprising of Municipal Ward 'A' of Greater Bombay.

**G.N.L. & S.W.D. No.DDC.5058-158903-G, dated 20th December, 1958
(B.G.Pt.IV-B, p. 34)**

S. 3 – In exercise of the powers conferred by section 3 of the Bombay Government Premises (Eviction) Act, 1955 (Bom. II of 1956), the Government of Bombay hereby appoints the District Deputy Collector, Bombay Suburban District, to be the Competent Authority for carrying out the purposes of the said Act in the area comprising of the Municipal Wards of Greater Bombay :-

- (1) 'B' Ward.
- (2) 'C' Ward (excluding the area of "Khara Talao").
- (3) 'D' Ward.
- (4) 'E' Ward.
- (5) 'G' Ward (excluding the area of Bombay Development Department Chaws situated at Worli).

18. It is thus manifest that in view of enforcement and implementation of the Bombay Government Premises Act, 1956, the Government had

appointed various competent authorities for carrying out the purposes of the provisions of 'Eviction Act 1956'. Curiously, by Notification dated 21.08.1958, the Deputy Commissioner of Police (Headquarter), Greater Bombay is declared as competent authority for carrying out the purposes of the said Act in the area comprising Municipal Ward 'A' of Greater Bombay only. Whereas, admittedly, insofar as quarter in question is concerned, it does not fall in Ward 'A'. According to Rejoinder filed by the Applicants, it falls in Worli, which is a part of Ward 'G'. There is no denial to these pleadings. As such, it is evident that Deputy Commissioner of Police (Headquarter), Greater Bombay is competent authority for the area comprising in Municipal Ward 'A' only. Whereas, as per Notification dated 20.12.1958, the Government had appointed District Deputy Collector, Bombay Suburb District to be the competent authority for carrying out the purposes of the said Act in comprising Wards 'B', 'C', 'D', 'E' and 'G' (excluding the area of Bombay Development Department Chawls situated at Worli). As such, even if there was provision of summary eviction under Section 3(2) of Bombay Police Act 1951, subsequent to the enforcement of 'Eviction Act 1956' and to implement the provisions of the said Act, the Government had declared various competent authorities for carrying out the purposes of the said Act area-wise in Mumbai. This aspect itself makes it explicit that eviction proceedings will have to be carried out in the manner laid down in 'Eviction Act 1956, otherwise, there was no reason for appointing various competent authorities under 'Eviction Act 1956'. The learned P.O. did not offer any comment on these Notifications as to why these Notifications were issued under the provisions of 'Eviction Act 1956'. Be that as it may, indeed the intention of the Government to implement the provisions of 'Eviction Act 1956' thereby impliedly taking away the powers earlier vested in Deputy Collector, Greater Bombay in terms of Section 31(2) of Maharashtra Police Act is manifest. There is nothing in 'Eviction Act 1956' to exclude Police premises from the operation of the said Act. On the contrary, the Government knowingly the provisions under Section 31(2) of Bombay Police Act had issued various

Notifications from time to time as referred to above, thereby appointing competent authorities to carry out the purposes of 'Eviction Act 1956'. Suffice to say, the provisions of 31(2) of Bombay Police Act are eclipsed.

19. Indeed, the issue of applicability of provisions of 'Eviction Act 1956' to the Police premises is already considered and adjudicated by this Tribunal in O.A.No.14/2012 in **Jiman's** case (cited supra). In that case also, eviction notice was issued under Section 31(2) of Bombay Police Act and contention was raised about its non-applicability in view of enforcement of 'Eviction Act 1956'. In Para No.14, the Tribunal held as under :-

"14. Now in the light of the judgments of the Hon'ble Supreme Court quoted hereinabove, it is clear that the principles of natural justice will have to be followed in the sense that detailed procedure as contemplated under Sec 4 of the Bombay Government Premises (Eviction) Act, 1955 would be the fair option. The aforesaid Bombay Government Premises (Eviction) Act, 1955, applies to all Government premises and the Act does not exclude the premises belonging to Police Force. Shri Khaire, learned Chief Presenting Officer, had fairly stated that the Police quarters are Government premises under the control of the Police Commissioner for the purpose of allotment etc. It is also clear from the judgment of the Hon'ble Supreme Court in the case of **DELHI TRANSPORT CORPORATION Vs. D.T.C MAZDOOR CONGRESS & OTHERS AIR 1991 SC 101**, that rule of law requires that powers to be exercised in a manner which is just, fair, reasonable and not in an unreasonable capricious and arbitrary manner leaving room for discrimination. In the light of the above, Regulation 9(b) was struck down by the Hon'ble Supreme Court in that case as violative of Article 14 of the Constitution of India. It should be remembered that Article 14 is the soul of our Constitution, which contemplates fairness, reasonableness and prevents unjust and capricious action. Using Article 14 as a touchstone in the above, it is clear that provisions of Bombay Government Premises (Eviction) Act, 1955 which is enacted subsequently, provides no exception with regard to premises occupied by police personnel, hence Section 4 of the Bombay Government Premises (Eviction) Act, 1955 would prevail over the Bombay Police Act, 1951, because Section 4 of the Bombay Government Premises (Eviction) Act, 1955, provides a detailed and fair procedure to a Government employee, on the contrary Section 31 of the Bombay Police Act, 1951, is an absolute and untrammelled powers with no legal guidelines which can always be misused capriciously.

20. Insofar as decision of CAT, Principal Bench, Delhi in O.A.No.159/2015 as referred by learned P.O. is concerned, in that case,

it was held that the accommodation being not condition of service of Officers and staff of President Secretariat, the issue of eviction does not fall within the definition of service matter as defined in Section 3(q) of the Administrative Tribunals Act, 1985. The O.A. was found not maintainable and returned for want of jurisdiction. Whereas, in the present case, admittedly, the quarter in question was allotted to the mother of Applicant No.1 and father of Applicant No.3 while they were in service as Sweeper. Here in Maharashtra, we have specific enactment namely 'Eviction Act 1956', the provisions of which are discussed above. Therefore, in my considered opinion, this decision is of no assistance to the Respondents in the present situation.

21. In view of aforesaid discussion of law and facts, the inevitable conclusion is that the Respondent No.3 acted very highhandedly in exercising powers purportedly under Section 31(2) of Maharashtra Police Act and action is totally bad in law. Even if the possession is unauthorized, the Respondents were required to follow due process of law applicable to the matter and Applicant cannot be dispossessed in such manner. It is rule of law that prevails. Consequently, the impugned notices of eviction being illegal and arbitrary are liable to be quashed. The Respondents are under obligation to restore the possession to the Applicants and thereafter they may take necessary action for eviction in accordance to law. Hence, the order.

ORDER

- (A) The Original Application is allowed.
- (B) The impugned notices of eviction dated 15.11.2019 are quashed and set aside.
- (C) The Respondents are directed to restore the possession of service quarter in question to the Applicants within one month from today.

- (D) The Respondents thereafter are at liberty to take action for eviction in accordance to law.
- (E) No order as to costs.

Sd/-
(A.P. KURHEKAR)
Member-J

Mumbai
Date : 02.03.2022
Dictation taken by :
S.K. Wamanse.

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