

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.284 OF 2023

DISTRICT : MUMBAI

Shri Rahul Nagnath Patil,)
Age 39 years, occ. Assistant Police Inspector,)
Local Crime Branch, Gondia, Gadchiroli Range,)
Nagpur and Address at B/1/704, Rehab Sahyog CHS,)
Kankiya, Near Allstreet, Andheri (E), Mumbai)..Applicant

Versus

1. The State of Maharashtra,)
Through its Additional Chief Secretary,)
Home Department, Mantralaya, Mumbai)
2. The Director General of Police,)
S.B. Marg, Colaba, Mumbai)
3. The Commissioner of Police,)
D.N. Road, Opp. Crawford Market, Mumbai)
4. The Administrative Officer, Building Branch,)
Commissioner of Police, D.N. Road,)
Opp. Crawford Market, Mumbai)
5. Deputy Commissioner of Police, HQ-2,)
Commissioner of Police Office,)
D.N. Road, Opp. Crawford Market, Mumbai)
6. Superintendent of Police, Gondia, Dist. Gondia)..Respondents

Shri K.A. Shinde – Advocate for the Applicant

Shri A.J. Chougule – Presenting Officer for the Respondents

CORAM : Smt. Medha Gadgil, Member (A)

RESERVED ON : 14th September, 2023

PRONOUNCED ON: 15th September, 2023

J U D G M E N T

1. Heard Shri K.A. Shinde, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.

2. The applicant challenges order dated 4.11.2022 issued by respondent no.4 directing the applicant to pay the penal charges and vacate the official service quarters viz. B/1/704, Rehab Sahyog CHS, Kankiya, Near Allstreat, Andheri (E), Mumbai.

3. Brief facts of the case:

4. The applicant who was working as Police Sub Inspector in the Police Commissionerate, Mumbai was promoted to the post of Assistant Police Inspector and transferred to Nagpur City on promotion and relieved on 13.5.2021. On 31.5.2021 applicant made an application for replacing the transferred place either in Nagpur Range or Gadchiroli Range instead of Nagpur City. The applicant was transferred to Gadchiroli Range, which is a naxalite area by order dated 29.8.2021. The applicant by his application dated 22.11.2021 requested respondent no.4 for allowing him to retain the official service quarter at Mumbai. The applicant appeared before the DIG, Gadchiroli Range who posted the applicant to Local Crime Branch, District Gondia by his order dated 21.1.2022. The applicant again made

an application dated 27.1.2022 to respondent no.4 requesting for allowing him to retain the service quarter as per GR dated 6.8.2002. However, respondent no.5 by the impugned communication dated 14.11.2022 informed the applicant to pay the penal charges and to vacate the service quarters.

5. The applicant has challenged the eviction order dated 14.11.2022 issued by Deputy Commissioner of Police, Head Quarter, Mumbai whereby applicant's request for retention of quarter in terms of GR dated 6.8.2002 is rejected and penal charges are imposed. Ld. Advocate for the applicant submits that as per GR dated 6.8.2002 applicant is entitled to keep his service quarter as he is posted in naxalite area. He therefore prays that the impugned order dated 14.11.2022 be quashed and set aside.

6. This Tribunal by its order dated 28.3.2022 stayed the impugned order dated 14.11.2022 in view of decision dated 25.2.2022 in OA No.121 of 2021.

7. Ld. PO opposes the submission of the Ld. Advocate for the applicant. He relies on the affidavit in reply dated 4.5.2023 filed by Kishore Vishwanath Gaike, Assistant Commissioner of Police, HQ-2, Mumbai on behalf of respondents no.3 to 5. He pointed out that as per GR dated 18.11.2005 police personnel is entitled to retain service quarter free of cost for 3 months from the date of Retirement / Voluntary Retirement / Death / District Transfer and with license fee for the next 3 months and hence penal charges were levied on the applicant for the period 14.5.2021 to 13.8.2021 and for the period from 14.8.2021 to 13.11.2021. After that if the service quarter is not vacated even after completion of 6 months, penal charges are applicable. Therefore the respondents issued notice dated 14.11.2022 for recovery of license fees as well as penal charges and he was asked to vacate the service quarter. He

further pointed out that his previous place of appointment was Nagpur City and after that he was transferred to Gadchiroli Range and hence the GR dated 6.8.2002 is not applicable.

8. As regards the contention of the applicant that the respondent is not competent to issue the eviction notice, Ld. PO pointed out that the notice dated 14.11.2022 is merely an intimation notice and not eviction order. If the Government premises is not vacated even after serving the said notice, the Govt. premises is vacated by following the legal process as per Bombay Government Premises (Eviction) Act, 1955.

9. In this case it is seen that the applicant was earlier posted to Nagpur on 13.5.2021 and then posted to Gadchiroli Range on 29.8.2021. Hence, the GR dated 6.8.2002 is not applicable to the applicant. It is seen that the notice dated 14.11.2022 is not an eviction order but only a notice asking him to vacate the service quarter. There is no denying that the respondent is not competent to issue eviction notice. However, it is seen that notice dated 14.11.2022 is merely an intimation and not an eviction order. For the aforesaid reasons I do not find any reason to interfere with the impugned order dated 14.11.2022 and the OA deserves to be dismissed.

10. Original Application is dismissed. Interim relief granted by order dated 28.3.2023 stands vacated. No order as to costs.

Sd/-

(Medha Gadgil)
Member (A)
15.9.2023

Dictation taken by: S.G. Jawalkar.