

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.395/2022 (S.B.)

Sudhakar Wamanrao Ingle,
Aged 66, Occu: Retired,
R/o Saidham, Near Panjabi Lawn, Bypass Road,
Ghatanji, Tq Ghatanji, Dist. Yawatmal

... **APPLICANT**

// V E R S U S //

1] Superintendent of Police, Amravati,
Having his office at SP Office, Amravati.

2] State of Maharashtra,
Through The Addl. Chief Secretary,
For Home Department, Maharashtra

... **RESPONDENTS**

Shri N.B. Rathod, Advocate for the Applicant.

Shri S.A. Sainis, learned P.O. for the Respondents.

**Coram :- Hon'ble Shri Justice M. G. Giratkar,
Vice Chairman.**

Dated :- 07/01/2025.

J U D G M E N T

Heard Shri N.B. Rathod, learned counsel for the
applicant and Shri S.A. Sainis, learned P.O. for the respondents.

2. The case of applicant in short is as under:-

Applicant was working as a Police Sub Inspector in the Police Department. Applicant was allotted a Quarter in the Ashiyana Police Colony building in Amravati. He was transferred to Talegaon, but the applicant did not vacate the said Quarter. Therefore, notice was issued by Respondent No.1. Thereupon, applicant did not pay the rent. Therefore, respondent no.1 passed the recovery order dated 20/03/2014 of Rs.3,76,995/- including penal charges, etc.

3. It is the contention of the applicant that he was not given an opportunity of hearing. Respondent No.1 was not the Competent Authority as defined under the Maharashtra Government Premises (Eviction) Act, 1956. Therefore, the order passed by Respondent No.1 is liable to be quashed and set aside.

4. The O.A. is strongly opposed by the Respondents. It is submitted that an opportunity was given to the applicant. Notice dated 21/01/2014 was issued to the applicant. He received the said notice on 24/01/2014, but applicant did not reply to the said notice. Therefore, it cannot be said that the applicant was not

given any opportunity of hearing. Hence, the O.A. is liable to be dismissed.

5. During the course of submission, learned counsel for applicant Shri N.B. Rathod has pointed out the decision of this Tribunal in O.A. No.698/2017, decided on 20/08/2019. This Tribunal has held that in view of the Judgment of the Bombay High Court in the case of N.C. Sharma VS Union of India & Ors., 2004 (3) Bom. C.R.24, and the Judgment in O.A. No.41/2016 in the case of Shri Sampat Baburao Sawant VS State of Maharashtra & Ors, decided on 10/08/2018, it is clear that an opportunity of hearing must have been granted. The order of recovery of Rs.10,21,515/- was quashed and set aside, with directions to the respondent to recover the said amount as per the provisions of the Public Premises Eviction Act.

6. Learned P.O. has pointed out Section 5(1) of the Maharashtra Government Premises (Eviction Act), 1956 and submitted that the notice can be affixed to the door, if not received within 10 days from the date of receipt of the notice. The employee who has illegally possessed the Government

premises, shall have to pay the arrears of rent. If he fails, then it can be recovered as arrears of land revenue.

7. There is no dispute about the provisions of Section 5 (1) of the Maharashtra Government Premises (Eviction) Act, 1956. Notice is to be issued by the Competent Authority. As defined under Section 3 of the said Act, the Competent Authority is to be appointed by the Government through a Notification in the official Gazette. 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. There is no dispute that Respondent No.1 is not a Competent Authority as per the provisions of the Maharashtra Government Premises (Eviction) Act, 1956. Therefore, the notice issued by Respondent No.1 cannot be termed as a notice as per Section 5(1) of the Maharashtra Government Premises (Eviction) Act, 1956. Hence, the respondents cannot say that the applicant was given an opportunity and the applicant should have paid the rent.

8. This Tribunal in O.A. No. 698/2017 has held in Paras 6 and 7 as under:-

“6. The applicant has also placed reliance on the Judgment in O.A. 41/2016 in case of Shri Sampat Baburao Sawant Vs. State of Maharashtra & Ors., decided on 10/08/2018. After reading the above Judgments, it is made clear that without giving opportunity of hearing such drastic action cannot be taken against the Government servant. In this background, I would like to point out that as laid down by the Hon'ble Division Bench of the Bombay High Court as the applicant did not vacate the quarter in time, the respondents could have initiated the action under the Public Premises Eviction Act and they could have claimed damages for illegal occupation of the Government quarter . The unilateral action taken by the respondents to pass the order to recover the specific amount is absolutely in violation of law. Under these circumstances, I would like to point out that the respondents are at liberty to initiate action as per the law to recover the damages for illegal occupation of the Government accommodation by the applicant and as per the law they can recover this amount from the applicant, but the orders passed by the respondent no.4 to recover the amount Rs. 10,21,515/- and the procedure adopted by the Superintendent Bhandara Jail is in violation of law

7 In view of this discussion, the O.A. is partly allowed and the orders dated 15/04/2016 and 17/10/2016 are hereby quashed and set aside. No order as to costs.”

9. In view of the Judgment of this Tribunal in O.A. 698/2017 which was passed in view of the Judgment of Bombay High Court in the case of **N.C. Sharma VS Union of India & Ors.** (**cited supra**) and the Judgment in O.A. No.41/2016 in the case of

Shri Sampat Baburao Sawant VS State of Maharashtra & Ors.

(cited supra), the impugned order passed by Respondent No.1 is liable to be quashed and set aside. Hence, the following order:-

O R D E R

- (i) O.A. is partly allowed.
- (ii) The order of recovery issued by Respondent No.1 dated 20/03/2014 is hereby quashed and set aside.
- (iii) The respondents are at liberty to recover the said amount as per provisions of the Maharashtra Government Premises (Eviction) Act, 1956 by following the procedure.
- (iv) No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman.

Dated :-07/01/2025.

PRM.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Piyush R. Mahajan.

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 07/01/2025.