

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

CJ Court

Case: WP (C) PIL No. 17/2020
CM No. 3100/2020
CM No. 4083/2023

Prof S K Bhalla

.....Appellant/Petitioner(s)

Through :- Mr. S.S. Ahmed, Advocate with
Mr. Rahul Raina, Advocate.
Ms. Supriya Chouhan, Advocate.
Mr. M. Zulkernain Chowdhary,
Advocate.

v/s

Union Territory of J&K and others

.....Respondent(s)

Through :- Mr. S.S. Nanda, Sr. AAG.

**CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE**

ORDER

(13.09.2023)

01. Learned counsel for the petitioner has referred to Rule 5 of the Jammu and Kashmir Estates Department (Allotment of Government Accommodation) Regulations 2004, (for short, Regulations of 2004) wherein it has been provided that the certain category of persons are not eligible for allotment of residential accommodation including those persons who own or possess a house in the concerned city or who are in default of payment of license fee, etc. It has been submitted by learned counsel for the petitioner that from the names of persons to whom the Government has given accommodation in the list which is annexed

as Annexure-R1 to the status report filed on 28.03.2023, it is seen that there are many persons who own a house in Jammu or in Kashmir and thus, they are not eligible for allotment of house even under the discretionary quota. Regulation 5 reads as follows:

“5. Non-eligibility for allotment of residential accommodation:-

Residential accommodation shall not be allotted to-

- (a) Persons who own or possess a house in the concerned city whether in proprietorship or lease or otherwise, whether by themselves or through their spouses, sons, unmarried daughters or parents.
- (b) Persons who are in default in the payment of license fee/ furniture/rent for a period extending one year.”

02. In order to have a clear picture, Mr. S.S. Ahmed, learned counsel for the petitioner may furnish a list of those persons who possess houses in Jammu or in Kashmir as mentioned in the Annexure-R1 to the status report filed on 28.03.2023, within the meaning of Regulation 5 of Regulations of 2004 referred to above.

03. Mr. S.S. Nanda, learned Sr.AAG shall also furnish as to whether any of the persons mentioned in the aforesaid list has an alternative accommodation/house either in Jammu or in Kashmir so that appropriate order can be passed, as it will not be permissible under law to provide accommodation to any person who has an alternative accommodation within the meaning of Rule 5 of Regulations of 2004. Accordingly, the same may be done within a period of one week from today.

04. It has been submitted on behalf of the petitioner that many of those persons have been given accommodation to such type of accommodation to

which they are otherwise not entitled even if, they are deemed to be holding the offices.

05. Accordingly, the respondents shall also indicate as to the nature of the accommodation provided to the allottees to examine whether such allotment conforms to Regulation 3 of the aforesaid Regulation of 2004. Regulation 3 reads as under:

“3. **Classification of residence**:- Allotment shall be made by reference to the following classification/re-categorization:-

S.No.	Type of Accommodation	Entitlements Pay scales/slabs
1.	VIP Bungalows	Hon'ble Chief Minister/Hon'ble Chief Justice of J&K High Court/ Hon'ble Speaker Legislative Assembly/ Hon'ble Chairman Legislative Council/ Hon'ble Ministers/ Hon'ble Judges of J&K High Court/ Hon'ble Dy. Speaker Legislative Council/ Hon'ble State Ministers/Hon'ble Dy. Ministers/ Chief Secretary/Chairman PSC/D.G. Police and equivalent level officers.
2.	Special-A Quarters	Rs.18,400-22,400 to Rs.22,400-24,500
3.	A-Type Quarters	Rs.14,300-18,300 to Rs.18,400-22,400
4.	B-Type Quarters	Rs.10,000-15,200 to Rs.12,000-16,500
5.	3-Room Sets/ C-Type Houses	Rs.6500-10500 to Rs.9000-14100 (selection grade under Secretaries)
6.	2-Room Sets/	Rs.4000-6000 to Rs.5000-8000
7.	1-Room Set/Dormitories	Rs.2550-3200 to Rs.3050-4910”

06. List on 25.09.2023.

(RAJESH SEKHRI)
JUDGE

(N. KOTISWAR SINGH)
CHIEF JUSTICE