

**HIGH COURT OF MADHYA PRADESH**

**BENCH AT GWALIOR**

**Hon'ble Shri Justice Satish Kumar Sharma.**

**Civil Revision No.490 of 2021.**

Gayatri Parashar

**Versus**

Tulsiram Kori.

Whether reportable : Yes.

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Shri Ankur Maheshwari, learned counsel for the applicant.  
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**J U D G M E N T.**

This revision petition has been filed by the applicant/tenant against the order dated 30.11.2021 passed by the Rent Controlling Authority/Sub Divisional Officer, Guna in Eviction Matter No.1A-90 (1)/2021-22 under Chapter 3A of the M.P. Accommodation Control Act, 1961 (hereinafter would be referred as to the 'Act of 1961') whereby, the application filed by the applicant under Order 7 Rule 11 of Code of Civil Procedure has been dismissed.

The respondent/landlord is an employee of the National Fertilizer Ltd Vijaypur, i.e. a Govt. of India undertaking. He has filed an application for eviction of the rented accommodation let out to the applicant/tenant under Chapter 3A of the Act of 1961 on the ground of bonafide requirement of the landlord and his family members. The applicant filed an application under Order 7 Rule 11 of CPC seeking dismissal of the eviction application on the ground that the landlord does not come in the purview of

definition of the 'landlord' for the purpose of Chapter 3A. This application of the tenant has been dismissed by the Rent Controlling Authority. Therefore, being aggrieved of the impugned order, this revision petition has been filed by the tenant.

Heard the learned counsel for the applicant/tenant and perused the material made available on record.

Learned counsel for the applicant/tenant submits that indisputedly, the landlord is an employee of National Fertilizer Vijaypur which is a company registered under the Company's Act therefore, it cannot be termed as 'State' and the same at the most can be termed as instrumentality of the 'State'. Thus, the landlord in the present case is not a government servant as per the definition contained in Section 23-J of the Act of 1961. The impugned order is against the express provisions of law which deserves to be quashed and set-aside. He has placed reliance upon the judgment passed by this court in the cases of **Subhash Kumar Malviya Vs. Shankar Lal Mohanlal Malviya reported in 2000 (3) MPLJ 609 and Central Warehousing Corporation Vs. Municipal Corporation Khandwa and another reported in 1996 MPLJ 73.**

Heard. Considered.

The core question arises in this case for consideration is whether, an employee of the National Fertilizer Ltd i.e. a public undertaking, can be termed as 'government servant' as per the definition of the 'landlord' provided under Section 23-J of the Act

of 1961.?

The similar issue was considered and adjudicated upon by the Division Bench of this Court in **Civil Revision No.61 of 1991 (Ranjit Narayan Haksar Vs. Surendra Verma) on 7.9.1994** wherein, an employee of M.P. State Road Transport Corporation was held to be 'a landlord' under section 23-J of the Act of 1961, with the following observations :

14. From such legislative perspective, there could not be any discrimination between retired employees of Government owned or controlled companies, or corporation. Of course we are not called upon to decide if [Section 23J\(ii\)](#) if understood as being applicable only to companies incorporated under the [Companies Act, 1956](#) will violate [Article 14](#) of the Constitution. Nevertheless in considering the legislative intent, regard must be had to the equality clause in the Constitution in case of an ambiguity. We sought the assistance of learned counsel in finding the possible reasons for treating retired employees of companies under the [Indian Companies Act](#) and statutory corporation differently. The only reason suggested at the bar is that the corporations are more in number and larger in size and have large number of employees and the legislature did not desire to extend the benefit of Chapter IIIA to such a large number of landlords to the detriment of the tenants. This reason is not sound in view of [Section 23J\(i\)](#) which includes the very large number of retired Government employees in the definition of landlord. There is nothing in the language or context of [Section 23J\(ii\)](#) indicating any intention to give a restricted meaning to the expression 'company'. The legislature did not refer to the [Companies Act](#) in [Section 23J\(ii\)](#) and did not specifically exclude statutory corporation. The expression 'company' has been used in its general legal sense and takes in Government owned or controlled statutory Corporations. We hold that retired employee of a Government owned or controlled statutory corporation is a landlord as defined in [Section 23J\(ii\)](#) of the Act”.

The Hon'ble Supreme Court of India in **Civil Appeal No.1696 and 1697 of 2016 (Subhash Chandra (D) Through LRs. Vs. Gulab Bai and Others)** has also settled the legal position that an employee of Municipal Corporation would also

come in the purview of 'landlord' as defined under Section 23-J of the Act wherein, in paras 5, 6 and 7 it has been held as under :

“5. We have noticed the special procedure and the special forum available for the categories of landlords specified in Section 23-J of the Act. They include: retired Government servants; retired servant of a company owned or controlled either by the Central or State Government; a widow or a divorced wife; physically handicapped person; a retired member of the defence service. The object of creating a special procedure and special forum by incorporating Chapter IIIA in the Act is to provide a more efficacious and speedy remedy to a category of landlords to obtain speedy possession of the premises which he/she/they may have let out. The special category of landlords envisaged under Section 23-J of the Act are persons who have either retired from Government service or defence service or company owned or controlled either by the Central or State Government or such persons who suffer from some kind of disadvantages like a physically handicapped person or a widow or divorced wife. The Madhya Pradesh High Court itself had expanded the meaning of the term ‘company’ appearing in Section 23- J(ii) of the Act by including within the ambit of the said expression the Madhya Pradesh State Road Transport Corporation. The said order of the Madhya Pradesh High has been affirmed by this Court by dismissing the Special Leave Petition against the said order.

6. If the object of Chapter IIIA of the Act is to provide a speedy remedy and a special forum for a category of persons who have retired from service we do not see how the retired employees of a Municipal Corporation can be legitimately excluded from the provisions of Section 23-J(ii) of the Act. Doing so would be putting Section 23-J of the Act itself to jeopardy. The object of the Act being what has been noticed above, the classification of retired persons by inclusion of one class i.e. Government service etc. and exclusion of another i.e. of Municipal Corporation, in our considered view, would render the provisions of Section 23-J(ii) constitutionally fragile.

7. We, therefore, are of the view that reading the provisions of Section 23-J(ii) of the Act to include retired employees of the Municipal Corporation would further the object behind the enactment of Chapter IIIA of the Act. We, therefore, hold that the appellant – landlord was fully entitled to avail of the special procedure enjoined by Chapter IIIA of the Act and the decree of eviction obtained by him cannot be faulted on the ground of lack of jurisdiction of the Tribunal/Forum which had decided the matter”.

Thus, this is now a well settled legal position that Chapter 3A of the Act of 1961, is a welfare legislation which has been

enacted with the prime object to give relief to the landlord of the specified categories including the government servants. Being welfare legislation, benefit of this special procedure cannot be restricted only for the employees of the State Government or to the Central Government rather it should be made available to the employees of the companies, corporations or public undertakings of the State Government as well as of the Central Government.

The landlord in this case is an employee of NFL Vijaypur which is undisputedly a Government of India undertaking. Therefore, in view of the above well settled legal position, he comes in the purview of definition of 'landlord' under section 23-J of the Act.

In the above stated judgment of this court i.e **Subhash Chandra (D) Through Lrs (Supra)**, it has been held that the Municipal Corporation is an independent entity separate from the State government and its employee is not covered by the definition of 'landlord' as mentioned under Section 23-J of the Act of 1961. Further, in **Central Ware Housing Corporation (Supra)**, the Central Ware Housing Corporation has been held to be an independent entity for the purpose of Property Tax. But in view of the above mentioned legal position as expounded by the Division Bench of this Court as well as by Hon'ble Supreme Court, both these judgments do not help the applicant.

Learned counsel for the applicant has also submitted that the 'landlord' has no bonafide requirement of the rented

accommodation, but this issue, being a factual one, shall be considered and decided by the authority in accordance with the relevant provisions and the eviction petition filed by the landlord under Section 7 Rule 11 of CPC, cannot be dismissed on mere assertion of the tenant regarding lack of bonafide requirement of the landlord.

In view of the above discussion and for the reasons stated, this court does not find any illegality or infirmity in the impugned order. Consequently, the revision petition is dismissed.

Rks.

**(Satish Kumar Sharma)**  
**Judge**  
**05/01.2022.**