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29.11.2022
jb.

W.P.A. 26253 of 2022
(Abhrarag Sarkar vs. State of West Bengal & Ors.)

Mr. Shibaji Kr. Das
Mr. Soumyajit Sen
.... For the Petitioner

Mr. Soumitra Bandyopadhyay
Mr. P. B. Mahato
.... For the State

Affidavit of service filed on behalf of the petitioner is taken on record.

The notice of eviction issued by the Assistant Secretary-II, PWD on 21st November, 2022 to the petitioner has been assailed in the writ petition.

The petitioner and his wife are government employees and the petitioner superannuated on March 31, 2015. His wife is still employed and is due to retire in 2026. The petitioner was asked to vacate the official residence upon superannuation. The petitioner filed an application before the concerned authority requesting renewal of such tenancy in favour of his wife since his

wife is still a Government employee. In an earlier writ petition filed by the petitioner being W.P.A. 17938 of 2021, this Court, by an order passed on 16th November, 2021 directed the concerned authority to consider the application made by the petitioner for transfer of official residence in favour of his wife. In considering the said representation, the authority called for certain documents from the petitioner and some of the documents were furnished by the petitioner before the authority. In the notice impugned dated 21st November, 2022 it is recorded that since the petitioner was unable to submit the required documents, that is, current pay slip of Smt. Jhuma Sarkar, request for transferring license was not granted by the competent authority and the notice directed the petitioner to vacate the said premises on or before 30th November, 2022.

It is submitted on behalf of the petitioner that the documents called for by the petitioner shall be furnished by the petitioner before the authority within two weeks from date.

Upon consideration of the submission made on behalf of the parties, this Court is

inclined to hold that since the request of the petitioner was rejected solely on the ground of non-furnishing of the required documents before the authority and also since the petitioner undertakes to submit the said documents within a fortnight from date, the authority should be directed to reconsider the prayer of the petitioner and pass a reasoned order thereto.

Accordingly, the writ petition is disposed of directing the third respondent to reconsider the prayer of the petitioner for transfer of the licence in favour of his wife Smt. Jhuma Sarkar upon the petitioner furnishing the documents as called for by the State respondents within a fortnight from date. On receipt of such documents, the third respondent shall consider and dispose of the representation within one month thereof upon granting reasonable opportunity of hearing to the petitioner and his wife Smt. Jhuma Sarkar, in accordance with law.

The decision taken by the authority shall be communicated to the petitioner within a week thereof.

The notice of eviction issued on 21st November, 2022 is hereby set aside/quashed.

The writ petition is thus disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)