

21.06.2023
DL-38
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 14142 of 2023

Kimsuk Roy
Vs.
Chandrabhanu Mishra, Lt. Commander & Anr.

Mr. Supratick Syamal,
Ms. D. Dasgupta

...for the petitioner.

Mr. Ajay Chaubey

....for Union of India.

Affidavit of service filed in Court today is retained with the records.

The petitioner prays for stay of an order dated May 18, 2023 issued by the Lt Commander-At-Arms to the Project Director (Varsha). By that order, the Project Director was requested to inform the petitioner/officer to take the house/Govt. Married Accommodation in the lower scale latest by May 31, 2023. The petitioner was earlier given accommodation at Commissariat Road Govt. quarter. The petitioner was directed to avail of the allotted quarter situate at Ballygunge Maidan Camp. The said quarter was allotted to him on March 23, 2023. By the order dated May 18, 2023, it was directed that the petitioner will be charged licence fee in accordance with the latest directives of Government of India with effect from April 3, 2023. The petitioner admittedly did not shift his parents from the Government quarter at Commissariat Road, i.e. a "A" type of

accommodation to the Government quarter at Ballygunge Maidan Camp which was a “B” type of accommodation.

Learned advocate appearing on behalf of the petitioner submits that the petitioner’s parents are suffering from major ailments and shifting them would require major arrangements to be made for their sustenance. Therefore, the petitioner made a prayer on April 21, 2023 to be allotted “B” type of accommodation from end June/mid July and cancellation of the present type “B” accommodation.

It is submitted on behalf of the petitioner that such representation has not been considered. Furthermore, the impugned order dated May 18, 2023 is an unsigned order.

Mr. Chaubey, learned counsel appearing on behalf of Union of India submits that despite being granted necessary time to shift from type “A” to type “B” accommodation, the petitioner has not done so. Furthermore, he submits that a special power of Attorney was given by the petitioner to his representative on June 9, 2023. From the said document, it clearly appears that the petitioner was present in Kolkata on the aforesaid date. Such a shift from “A” type to “B” type is necessitated due to the fact that the petitioner has been posted to a hard post and cannot be posted at the said place with his family members.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that considering the health status of the petitioner's parents and the difficulty they will suffer if they have to shift in the absence of the petitioner the order dated May 18, 2023 is to be kept in abeyance till July 31, 2023.

The petitioner has himself made a prayer for allotment of type "B" quarter either in the end of June or mid July.

Therefore, this Court directs the petitioner to vacate the type "A" accommodation by end July and hand over the possession of the same to the authorities concerned.

With the directions aforesaid, **WPA 14142 of 2023 is disposed of.**

Since no affidavits have been directed to be exchanged in the writ petition, the allegations contained therein are deemed not to have been admitted by the respondents.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)

