IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

PRESENT:
THE HON'BLE JUSTICE JAY SENGUPTA

WPA 3307 of 2025
Dr. Binita Ghosh
-vs.-
The State of West Bengal & Ors.

For the Petitioner	:	Mr. N.C. Bihani, Sr. Adv. Mr. Soumya Mukherjee
For the State	:	Mr. Swapan Kr. Datta, Sr. Adv. & AGP Mr. Tapas Kr. Dey
Heard on	:	17.02.2025
Judgment on	:	17.02.2025

JAY SENGUPTA, J.:

1. This is an application, *inter alia*, praying for release of House Rent Allowance, current and arrear, in favour of the petitioner.
2. Affidavit of service filed on behalf of the petitioner is taken on record.
3. Learned Counsel appearing on behalf of the petitioner submits as follows. The petitioner is an approved Assistant Professor (Stage-III) of Physics at the St. Paul's Cathedral Mission College, Kolkata. The husband of the petitioner being an employee of a private company is receiving House Rent Allowance (HRA) as a separate engagement. The Deputy Secretary, Department of Higher Education, C.S. Branch, relying on the Memorandum of the Finance Department (Audit Branch),

Government of West Bengal bearing No. 5839-F(P) dated July 09, 2012 and the Corrigendum Memorandum thereto bearing No. 8012-F(p2)/FA/O/2m/206/17(N.B.) dated December 27, 2018, stopped the payment of HRA to the petitioner. A Coordinate Bench of this Court by the judgment dated March 16, 2021 passed in WPA 1389 of 2018 (*Mousumi Biswas & Ors. vs. State of West Bengal & Ors.*) quashed the aforementioned Memorandum of 2018. An appeal being MAT 1023 of 2021 (*The State of West Bengal & Ors. vs. Mita Majumder & Ors.*) against the said judgment and order of the said Coordinate Bench is pending. But, no order of stay has been passed in the said appeal. Relying on this judgment, relief has been granted to a similarly circumstanced individual by an order dated 21.05.2024 passed in WPA 14006 of 2024. In view of the same, the petitioner would be entitled to full HRA along with interest on the arrears.

4. Learned counsel appearing on behalf of the State denies the allegations made in the writ petition and submits that if, at all, any relief is granted to the petitioner, the same has to be subject to the decision of the appeal being MAT 1023 of 2021.

5. It appears that the above-referred Memorandum of 2018 was quashed by a Coordinate Bench of this Court. However, an appeal is pending over the issue. But, no stay has been granted in the said appeal.

6. Relying on the said decision, another Coordinate Bench of this Court has granted appropriate relief in favour of similarly circumstanced individual.

7. In the present facts which are quite similar, I find no reason to take a different view.
8. Therefore, the concerned respondent authorities are directed to release HRA in favour of the petitioner, the arrear to be paid to the petitioner with interest @ 6% per annum from the date on which it became payable till the date of payment. Such payment shall be made within a period of six weeks from the date of communication of this order.
9. It is, however, made clear that the payment of HRA in terms of this order is subject to the result of the above referred pending appeal.
10. Accordingly, the writ petition is disposed of.
11. As affidavits were not called for, allegations contained in the writ petition are deemed not to have been admitted.
12. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Jay Sengupta, J.)

S. Gayen
AR (Court)