

HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

WPA 25631 of 2023

Sarmistha Sen and another
versus
The State of West Bengal and others

For the petitioners

Mr. Siddhartha Banerjee
Mr. Abhisek BaranDas
Ms. Srijoni Chongdar
Mr. Soumyajit Majumdar

For the State

Mr. Pinaki Dhole
Mr. Ritesh Kumar Ganguly

Heard on

26.03.2025

Judgment on

26.03.2025

JAY SENGUPTA, J:

This is an application, inter alia, praying for release of House Rent Allowance, current and arrears, in favour of the petitioners.

Upon service, the respondent authorities have entered appearance. The respondents are represented by Mr. Pinaki Dhole, learned Advocate.

Learned counsel appearing on behalf of the petitioners submits as follows. The petitioner Nos.1 and 2 are approved Assistant Teachers at Rahara Bhabanath Institution for Girls (Higher Secondary) and at Khardah Surya Sen Siksha Niketan (High) respectively. The spouses of the petitioners being employees of private companies are receiving House Rent Allowance (HRA) as separate engagements. The concerned District Inspector of Schools (S.E.) 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 from July, 2018. A Coordinate Bench of this Court by the judgment dated March 16, 2021 passed in **WPA 1389 of 2018** (*Mousumi Biswas & Ors. State of West Bengal & Ors.*) has 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.

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 petitioners, the same has to be subject to the decision of the appeal being MAT 1023 of 2021.

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.

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

In the present facts which are quite similar, I find no reason to take a different view.

Therefore, the concerned respondent authorities are directed to release the HRA, that had not been paid to the petitioners for the period mentioned above, in favour of the petitioners, the arrear thereof 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.

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.

Accordingly, the writ petition is disposed of.

As affidavits were not called for, allegations contained in the writ petition are deemed not to have been admitted.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)