21st Sept., 2026

Item no.D/L 40
Court No. 24

Pradip, A.R.(Ct.)

In the High Court at Calcutta

Constitutional Writ Jurisdiction
Appellate Side

Case No. **WPA 11054 of 2026**

In the matter of:

Agnita Kundu

.... Petitioner

VS.

The State of West Bengal & Ors.

....Respondents

For the Petitioner:

Mr. N.C. Bihani, Sr. Adv.

Mr. Soumya Mukherjee

....Advocates

For the State:

Mr. Pulakesh Bajpayee

....Advocate

1. Affidavit of service filed in Court today is taken on record.

2. The petitioner seeks House Rent Allowance (HRA). The petitioner was paid HRA till July, 2020. From August 2020 till March, 2022 HRA was not paid to the petitioner at all. Thereafter from April, 2022 till February, 2026 HRA was partially paid to the petitioner. However, payment of HRA was stopped entirely from March, 2026. HRA paid to the petitioner for the period from May, 2009 to March, 2019 which was initially paid was recovered from the petitioner as overdrawn amount, taking into account HRA received by her spouse. Prayer has been made to direct the respondents to (i) refund HRA recovered from her, (ii) release arrear HRA, (iii) continue paying the current HRA and (iv) grant interest on account of delayed payment of HRA.

3. It is the specific case of the petitioner that her spouse does not work in any government organization. He works in a private organization.

This order has been modified by speaking to the minutes of the order dated 12th October, 2026.

4. Whether the teacher would be entitled to receive house rent allowance if the spouse receives house rent allowance from the employer has been decided by the Court on 16th March, 2021 in **WPA 1389 of 2018** in the matter of **Mousumi Biswas & Anr. Vs. The State of West Bengal & Ors**.

5. The Court was pleased to hold that the employer does not have any right to deduct house rent allowance from the teacher even if the spouse received house rent allowance from the employer of a private organization.

6. In view of the law laid down by the Court in the matter of Mousumi Biswas (supra), the respondent authorities cannot withhold house rent allowance of the petitioner as the spouse of the petitioner does not receive house rent allowance from any government organization.

7. The instant writ petition is disposed of by directing the Director of Public Instruction being the respondent no. 6 herein to ascertain as to whether the spouse of the petitioner is working in a government organization or not and thereafter take a decision on the prayer of the petitioner seeking release of her house rent allowance strictly in line with the law laid down by the Court in the matter of Mousumi Biswas (supra).

8. A decision shall be taken at the earliest but positively within a period of twelve weeks from the date of communication of this order.

9. An opportunity of hearing shall be given to the petitioner for production of documents in support of the house rent allowance drawn by her spouse, if any.

This order has been modified by speaking to the minutes of the order dated 12th October, 2026.

10. If the prayer of the petitioner is allowed, then steps for releasing the house rent allowance in favour of the petitioner shall be taken without any further delay.

11. As the petitioner will receive house rent allowance at a delayed point of time, accordingly, the petitioner would be entitled to receive interest on account of the delayed payment.

12. The dues of the petitioner shall be released with interest calculated at the rate of six per cent per annum on and from the due date till the date of actual payment.

13. The writ petition stands disposed of.

14. Parties to act on the basis of the server copy of this order duly downloaded from the official website of this Court.

15. Certified server copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Amrita Sinha, J.)

This order has been modified by speaking to the minutes of the order dated 12th October, 2026.