09.10.2026
Sl. No.20
Ct. No.14
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 29950 of 2025

Chitra Dalal
Versus
The State of West Bengal & Ors.

Mr. Arkadipta Sengupta,
Ms. Ria Naskar,
Ms. Ankita Ghosh
...for the Petitioner.

Ms. Aparna Banerjee, Ld.AGP
Mr. Brijendra Pratap Singh
Mr. Aninda Bhattacharya
...for the State.

Mr. Madhu Jana,
...for the DPSC, Howrah.

1. By the present writ petition the petitioner seeks for cancellation and/or quashing of the memo being No.778/3 dated 23rd August, 2018 issued by the respondent no.4, the Secretary, District Primary School Council, Howrah and for resumption of House Rent Allowance *(in short 'HRA')* to the petitioner as well as for payment of arrears of HRA from 10th September, 2018, in accordance with law.

2. The petitioner contends that she joined as an Assistant Teacher in Sutragarh Sadharan Girls Primary School on 13th February, 2006. Subsequently, the petitioner has been transferred to Moukhali 2 Primary School, where she joined on 10th March, 2012. The petitioner at present is discharging her function as an Assistant Teacher in the said institution. The HRA of the petitioner has been stopped on and from September, 2018 on the ground that the petitioner failed to submit

declaration form duly signed by the teacher and her spouse. It is the specific contention of the petitioner that due to marital discord the petitioner is living separately from her husband since long, who is employed under the Central Government. A matrimonial proceeding is pending before the competent Civil Court. The petitioner is not in a position to submit the declaration form with the signature of her husband. By the impugned letter the Council has refused to grant HRA to the petitioner on such ground. Being aggrieved by the action of the respondent authorities particularly, the Council the petitioner has preferred the present writ petition.

3. Mr. Arkadipta Sengupta, learned Advocate appearing on behalf of the petitioner submits that the petitioner and her husband are living separately since long due to matrimonial dispute for which reason the petitioner is unable to submit the declaration form as per requirement with the signature of her husband. In relation to such dispute, matrimonial suit is filed by the petitioner against her husband being Matrimonial Suit No.1170 of 2021 which is pending before the jurisdictional Court. Be that as it may, the petitioner is entitled to receive the entire HRA as per the existing rules. The HRA of the petitioner has been stopped without any plausible reason *vide* the letter under challenge. Reliance is placed on the decision of this Court passed in *Priya Basu -versus- The State of West Bengal (In re: WPA 21501 of 2025).* He files a copy of case status of Matrimonial Suit No.1170 of 2021

pending before Additional District Judge, FTC-III, Howrah along with order sheet dated 7th October, 2026, which is taken on record.

4. On the contrary, Mr. Madhu Jana, learned Advocate representing the Howrah District Primary School Council submits that as per existing rule the employees are to submit declaration form twice in a year as per Memorandum No.97-SE(B)/M-24/2001 of the School Education Department dated 7th March, 2021 followed by the memo No.955-SE (Law)/SL/5S-1221/09 dated 27th July, 2011, which has not been submitted by the petitioner. For such reason the HRA has been stopped by the authority concerned.

5. As per the memorandum being No.97-SE(B)/M-24/2001 of the School Education Department dated 7th March, 2021 followed by the memo No.955-SE (Law)/SL/5S-1221/09 dated 27th July, 2011 the employee is required to submit a declaration form pertaining to HRA twice in a year in January and July. The impugned letter dated 23rd August, 2018 clearly records that the declaration form is to be submitted with the signature of the petitioner and her spouse. Admittedly, matrimonial suit is pending between the parties. Be that as it may, bearing in mind the fact of the case the petitioner is living separately from her husband due to matrimonial discord it is not possible for her to submit the declaration form, as required under the memorandum issued by the Government with the signature of her husband. The circumstances is hit by doctrine of

supervening impossibility as the unforeseen circumstances is beyond the control of the petitioner. This doctrine is based on the maxim *"Lex non cogit ad impossibilia"* which essentially means that "*law does not compel the impossible".*

6. In view of the above facts and circumstances, the petitioner is directed to submit declaration form with her signature only along with an affidavit stating the fact of pending matrimonial suit as well as the period since petitioner is living separately from her husband to the concerned authority. Upon submission of such declaration form and affidavit, the Howrah District Primary School Council, respondent no.2 is directed to consider and allow HRA in favour of the petitioner from the date when the same has been stopped, i.e. September, 2018.
7. All consequential orders, if any, be also passed by the Council.
8. Such exercise shall be completed within a period of eight weeks from the date of submission of such declaration form with the affidavit.
9. It is made clear that this order is passed in the peculiar circumstances of the present case and shall not be treated as precedent.
10. With the above observation, the writ petition being **WPA 29950 of 2025** stands disposed of.
11. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
12. Interim order, if any, stands vacated.

13. All connected applications, if any, stand disposed of.

14. There shall be no order as to costs.

15. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

16. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)