

(2009) 04 CAL CK 0002

Calcutta High Court

Case No: Writ Petition No. 4309 (W) of 2007

Smt. Rakhi Dutta (Deb)

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

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**Date of Decision:** April 27, 2009**Hon'ble Judges:** Sailendra Prasad Talukdar, J**Bench:** Single Bench**Advocate:** Partha Sarathi Bhattacharjee and Mr. Goutam Acharya, for the Appellant;  
Prafulla Kumar Ghosh, for the Respondent

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### Judgement

Sailendra Prasad Talukdar, J.

Grievance of the writ petitioner as ventilated by Mr. Bhattacharjee appearing as learned counsel relates to alleged arbitrariness/illegality in considering the claim of the writ petitioner for re-allotment of the flat No.21 Block-C, LIC Housing Estate, 30 Ramkrishna Samadhi Road, Kolkata-700054. It appears that the said flat was allotted initially in favour of one Gopal Ranjan Deb and after his death, it was allotted in favour of Bipul Ranjan Deb. With the death of the said allottee, Bipul Ranjan Deb on 15th January, 2006 the present petitioner claiming to be the niece and one who used to reside with such allottee since deceased approached the concerned authority for allotment the flat in her name. According to Mr. Bhattacharjee the claim of the writ petitioner has not been considered in its proper perspective. Mr. Bhattacharjee inviting attention of the Court to the relevant provision of West Bengal Premises (Tenancy Regulation) Act, 1976 submits that the niece is certainly an intimate relationship and since the writ petitioner used to reside with the allottee, since deceased, she has legitimate claim for such allotment of the flat in her favour.

2. In response to this Mr. Ghosh appearing as learned counsel for the state respondent first invites attention of the Court to the enquiry report copy of which has already been annexed to the writ application. In the said enquiry report it has been specifically mentioned that the allottee, Bipul Ranjan Deb died leaving no heir behind and the flat was not in occupation of anyone and it was kept under lock and

key. This prompted the respondent authority to take possession of the said flat. Since the writ petitioner's appeal for allotment was not taken into proper consideration she approached this Court with a writ application and the same was disposed of by learned Court with direction for fresh consideration.

3. According to Mr. Bhattacharjee, the order dated 18th December, 2006 which was made after such fresh consideration would clearly reflect non-appreciation of the matter in its proper perspective, it is further claimed that the writ petitioner was not given ample opportunity to produce the documents in support of her claim that she had been residing with the allottee. Bipul Ranjan Deb, reportedly her uncle. Copies of certain documents showing that the writ petitioner was residing in the said flat under the care of Bipul Ranjab Deb have been annexed to the writ application. Though Mr. Bhattacharjee further refers to an affidavit purportedly sworn by Bipul Ranjan Deb thereby introducing the writ petitioner as his niece. I do not think that such affidavit can conclusively establish the relationship.

4. Be that as it may, after due consideration of relevant facts and materials, the present application being W. P. No.4309 (W) of 2007 is disposed of with fresh direction upon the respondent authority being the respondent No.2 herein to consider the entire writ application along with its annexures as a representation in the proper perspective and take appropriate action or pass necessary order in respect of the writ petitioner's claim for allotment of the aforesaid flat in her favour.

5. While considering the matter, the writ petitioner must be given an opportunity of hearing and she must be allowed to produce the relevant documents in support of her claim. It is also made clear that the writ petitioner must also satisfy the concerned authority that she was the niece of the deceased allottee and that she used to reside with him prior to his death in the flat under reference.

6. The entire process must be completed within a period of eight weeks from the date of communication of the order and submission of the representation.

7. Action to be so taken or order to be so passed must duly be communicated to the writ petitioner within a further period of two weeks.

There will however, be no order as to costs.

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