

Court No. 2

15.7.2025

(Item No. 2)

(Moumita)

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 7199 of 2023

with

CAN 1 of 2023

CAN 2 of 2023

CAN 3 of 2024

CAN 4 of 2024

CAN 5 of 2024

CAN 6 of 2025

Sandip Kumar Mallick

VS

Union of India & Ors.

Mr. Debarshi Das

Mr. Amit Pan

.... For the Petitioner

Mr. Avishek Guha

Mr. Subhajit Das

.... For L.I.C.I./Respondent nos. 2 to 5

In Re: CAN 6 of 2025

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

Mr. Debarshi Das, learned advocate
appears for the petitioner.

Mr. Avishek Guha, learned counsel
appears for LIC with Mr. Subhajit Das, learned
counsel.

None appears for Union of India.

This is an interlocutory application filed
in the pending writ petition with the following
prayers:

- a. *“Stay of operation of the 1 notice
of show cause dated 16th June,*

- under Annexure –III, and/or the same be kept in abeyance till disposal of the said writ petition, being WPA No. 7199 of 2023;
- b. Stay of operation of Rule 7 of the Life Insurance Corporation of India Development Officers (Revision of Certain Terms and Conditions of Service) Rules, 2009 (hereinafter referred to as Rules, 2009) amended as Life Insurance Corporation of India Development Officers (Revision of Certain Terms and Conditions of Service) Amendments Rules, 2016 notified by Gazette of India on 22.01.2016;
 - c. Mandatory injunction directing the respondent no. 5 to not to give effect to or proceed with the notice of show cause dated 16th June, 2025, under Annexure – III;
 - d. Mandatory injunction directing the respondent no. 5 to abstain from service a notice of termination mechanically;
 - e. Ad-interim orders in terms of prayer a., b., c. and d. above;
 - f. Costs of and incidental to this application;
 - g. Such further and/or or other order and/or orders and/or direction(s) be given as this Hon'ble Court may deem fit and proper to meet the ends of justice."

Prayers (b) and (c) from the writ petition

are also quoted below:

- b. "A declaration do issue declaring Rules 2, 3, 6, 7 and 8 of the Life Insurance Corporation of India Development Officers (Revision of Certain Terms and Conditions of Service) Rules, 2009 ultra vires Articles 14, 16, 20(2) and 21 of the Constitution of India for conferring uncanalised and unbridled powers upon the Respondents to terminate the services of a class of employees in an unreasonable and illegal manner;

c. A declaration do issue declaring Rules 2, 3, 6, 7 and 8 of the Life Insurance Corporation of India Development Officers (Revision of Certain Terms and Conditions of Service) Amendments Rules, 2016 ultra vires Articles 14 and 21 of the Constitution of India since it is tantamount to creation of a class within a class of permanent Class II category Development Officers in an unreasonable, illegal and discriminatory manner;”

Claiming identical reliefs several writ petitions are pending before this Court in which diverse orders were passed from time to time. One such order dated **April 10, 2025** was also passed by this Court in **W.P.A. 7514 of 2025 In the matter of: Koushik Mondal Vs. Union of India & Ors.**

Mr. Debarshi Das, learned counsel appearing for the petitioner has drawn attention of this Court to an interim order dated **April 15, 2024** passed by a co-ordinate bench.

L.I.C.I. has preferred an appeal from the same being **MAT 1222 of 2024**. The appeal was disposed of with the following observations:

“2. By the impugned order, learned Single Judge noticed that there are subsisting interim orders passed by the Coordinate Bench in a number of writ petitions spanning from 2019 till 2023. In view of subsistence of such interim orders, learned Single Judge proceeded to grant the same interim order to the writ

petitioner by the impugned order.

3. Learned advocate appearing for the appellant submits that, there are orders of different High Courts which did not grant such interim order.

4. The writ petition is yet to be finally decided. There subsists interim orders passed in a number of writ petitions spanning over a period of 2019 and 2023.

5. Learned Single Judge as a Coordinate Bench in respect of other learned Single Judges who passed interim orders was bound to follow such interim order granted.

6. Consequently, learned Single Judge passed the same interim order.

7. We find no infirmity in the exercise of such discretion by the learned Single Judge warranting an interference in an intra Court appeal.

*8. **M.A.T. 1222 of 2024** along with connected applications, if there be any, are **disposed of**.”*

In view of the above, an interim order was passed by this Court on **April 10, 2025** to the effect that the proceeding against the petitioner may continue but no final order shall be passed. The proceeding shall abide by the result of the writ petition. Parties were directed to exchange their affidavits. The said order dated **April 10, 2025** also noted pendency of a Special Leave Petition before the Hon'ble Supreme Court.

Today, when the matter has been taken up for consideration Mr. Avishek Guha, learned counsel has submitted that, in the meantime by a judgment dated **December 20, 2024** in a bunch of writ petitions the Allahabad High Court, *inter alia*, in **Neutral Citation No. – 2024:AHC:200075-DB** had held the subject Rules to be *intra vires*. Both the learned counsel appearing for the respondents submit that the subject Rules which are under challenge in the instant writ petition were the same Rules which were under challenge before the Allahabad High Court and the same were declared to be *intra vires*. Copy of the judgment of the Allahabad High Court placed before this Court is taken on record.

Several writ petitioners who were there before the Allahabad High Court being aggrieved by the said judgment preferred Special Leave Petition. Copies of a bunch of orders of the Hon'ble Supreme Court passed in the said Special Leave Petition from time to time being **Special Leave Petition No. (Civil) Diary No(s). 6366/2025** have been made over to this Court, the same are taken on record. These orders record hearing of the Special Leave Petition was adjourned from time to time. The

last order placed before this Court dated **May 6, 2025** shows that the Special Leave Petition has been directed to appear in the **last week of August 2025** on the prayer made on behalf of the petitioner.

Referring to these orders passed by the Hon'ble Supreme Court learned counsel LICI respondents submits that the operation of the Allahabad High Court judgment has not been stayed and therefore there is no scope for passing any further order in the instant writ petition, since the Rules under challenge in the instant writ petition have already been declared to be *intra vires* by the Allahabad High Court. It is further submitted that, unless the Rules are declared to be *ultra vires* specifically, the law presumes the Rules are *intra vires*.

Mr. Avishek Guha, learned Counsel for LICI further submits that through this application the writ petitioner has challenged the 3rd show-cause notice dated **June 16, 2025**. This was not the subject matter in the writ petition.

After considering the rival contentions of the parties and upon perusal of the materials on record and the records placed before this Court, as referred to above, it appears to this

Court that, none of the orders passed by the Hon'ble Supreme Court show that stay was pressed for but refused. Simply the hearing of the Special Leave Petition was adjourned from time to time and scheduled to appear in the ***last week of August 2025***.

It further appears to this court that the relevant rules are under challenge in the parent writ petition, the 3rd show-cause notice dated ***June 16, 2025*** has also been issued in aid thereof. Thus, if the writ petition succeeds on merit, automatically the said 3rd show-cause notice will lose its force. This court is of the view that, in such fact situation, if any order is passed in the parent writ petition the same shall also be in force and shall govern the said 3rd show-cause notice.

In view of the above, since the issue is pending before the Hon'ble Supreme Court, the judicial propriety demands that hearing of this writ petition should be adjourned for the time being until the issue is finally decided by the Hon'ble Supreme Court. The same interim order passed earlier dated ***April 10, 2025*** can continue for the time being. Accordingly, the proceeding against the petitioner may continue but no final order shall be passed by L.I.C.I.

In view of the above, **CAN 6 of 2025** stands ***disposed of***, without any order as to costs.

The writ petition shall appear under the heading **“Motion (Service)”** in the **monthly list of September, 2025**.

(Aniruddha Roy, J.)