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WPA 24367 of 2026

Dr. Shilpa Basu Roy
Vs.
State of West Bengal & Ors.

Mr. Sudipta Dasgupta
Mr. Bikram Banerjee
Ms. Sinjini Chakraborti
Mr. Arindam Shit

..... for the petitioner

Mr. D. N. Ray, learned G.P.
Mr. Guddu Singh
Mr. Palash Bapari

..... for the State

1. Let affidavit-of-service, as filed in Court, be kept on record.
2. The petitioner is a Cardiovascular and Cardiothoracic Surgeon with a Master's Degree in Cardiovascular and Cardiothoracic Surgery. The petitioner has been in service at the institute of Post-graduate Medical Education and Research and Seth Sukhlal Karnani Memorial Hospital (hereinafter referred to as the "SSKM Hospital") since 2017. She has, thereafter, been promoted to the post of Assistant Professor in the department of Cardiovascular and Cardiothoracic Surgery sometime in December, 2018. The petitioner is a Surgeon of repute who has also performed Renal Transplantation Surgery at the SSKM Hospital. The efficiency and merit of the petitioner is not in

dispute. The petitioner, on a daily basis, attends to at least 100 patients, if not more, while working in the Outdoor Patient Department (OPD) at SSKM Hospital.

3. By virtue of the Notification dated August 19, 2026, bearing No. HF/O/MA(MES)/546/ME/ MISC-155-2026, the petitioner has been transferred to the Malda Medical College and Hospital, Malda, to continue as an Associate Professor and render services as a consultant doctor.

4. The petitioner has approached this Court with a grievance, not so much that she had been transferred, but on the ground that the transfer was to a place at Malda, which does not even have a Department for the Cardiovascular and Cardiothoracic services. To ascertain the veracity of the statement of the petitioner, Mr. Singh, learned Advocate appearing for the State, has taken instructions and has produced a communication dated September 11, 2026, from the Special Secretary (Medical Education), Department of Health and Family Welfare, Government of West Bengal to the Director of Medical Education, Government of West Bengal, Department of Health and Family Welfare. Such communication is kept on record.

5. It is rather surprising to note that the communication states that a proposal for opening the Cardiovascular and Cardiothoracic Department has been made. There is no approval for this proposal, which in essence, supports the apprehension expressed by the petitioner, that there is no such department at the Malda Medical College, Malda, at present.

6. From the aforestated facts, one has to conclude, as such conclusion is inevitable that the order of August 19, 2026, transferring the petitioner, has either been made without application of mind or out of malice, arbitrariness or at least out of malice in law. There is a complete lack of transparency in the impugned order and a definitive lack of application of mind to transfer a doctor of such repute, competence and merit to a college which does not even have a department in which she excels.

7. Since there is nothing on record to hold that this act of commission and/or omission of the respondent authorities is malicious, it would be safe to ascribe such a transfer to nothing short of arbitrariness and complete lack of application of mind.

8. Services of the petitioner cannot be wasted in a medical college where there is no such

department, there is absolutely no infrastructure to ensure that even if there was a patient requiring such surgery as Cardiovascular or Cardiothoracic, the same could be provided to ensure that such patients can get the necessary relief.

9. In view of the aforestated finding, the transfer order dated August 19, 2026 in so far as it operates against the petitioner, is set aside. Consequently the order dated August 22, 2026, being the release order of the petitioner is also set aside.

10. Authorities will be at liberty to transfer the petitioner, however, to a medical college or hospital where sufficient and adequate infrastructural facilities are available for a doctor in the caliber of the petitioner to function efficaciously.

11. Till such time that the petitioner is transferred to a more suitable place, she will continue to render services at the SSKM Hospital.

12. With the aforesaid directions and observations, the writ petition stands disposed of.

13. There will be no order as to costs.

14. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Reetobroto Kumar Mitra, J.)