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**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A. 749 of 2019

**Pinki Bhattacharjee
-versus
The State of West Bengal & Ors.**

Mr. Ujjal Ray
...For the Petitioner.

**Mr. Debabrata Dhar, AGP,
Ms. Paramita Sahu**
For the State

**Mr. Partha Sarathi Deb Barman,
Mr. Arun Kr. Chakraborty**
For the respondent nos.5,6& 7

The petitioner is a Teacher of a Higher Secondary School. She applied for transfer on medical grounds. Her application for transfer not being considered by the school authority, the petitioner approached this court by filing a writ petition being WPA No. 256 of 2019, which stood disposed of by an order dated 22nd August 2019, whereby the court directed the respondents to consider the representation/application made by the petitioner for transfer, upon conducting the necessary procedure and examination as envisaged in Rule 7 of the Notification dated 11th March 2015.

Rule 7 of the said Notification lays down the Procedure for General Transfer on special ground under

Rule 4(1)(a) and 4(1)(b) of the Notification dated 11th March 2015 issued by the West Bengal School Education Department, Secondary Branch.

In compliance of the order passed by the court, the necessary medical documents were forwarded by the school to the Chief Medical Officer of Health, Jalpaiguri vide a communicating letter dated 28th August 2019 and copy of the same was forwarded to the Block Medical Officer of Health, Maynaguri and to the District Inspector of Schools (Secondary Education), Jalpaiguri.

The Chief Medical Officer of Health, Jalpaiguri vide a memo dated 2nd September 2019 communicated the Headmaster of the school his opinion in respect of the prayer of the petitioner.

The opinion of the Chief Medical Officer of Health mentions that the prayer of the petitioner does not meet the requirement as mentioned in Rule 4(a) of the aforesaid notification. The CMOH, Jalpaiguri opined that the certificate submitted by the petitioner for transfer is not supporting for the purpose.

The aforesaid opinion of the CMOH, Jalpaiguri was forwarded by the school to the petitioner by a communicating letter dated 11th September 2019.

The petitioner is aggrieved by the same.

It has been submitted that the CMOH and the Medical Board took into consideration only one disease,

i.e. 'Hypothyroidism' to refuse the prayer of the petitioner.

The petitioner submits that the medical certificates she relied upon mentions other diseases which the petitioner is suffering from and is undergoing treatment. The medical opinion was given without taking into consideration the said diseases.

The petitioner submits that the medical certificate issued by the Dr. Aparna Bhattacharyya mentions that she was suffering from PCOD and other diseases and the certificate of Dr. Milon Kanti Paul mentions that she was suffering from Chronic Bronchial asthma Hypothyroidism, menstrual disorder and other diseases as mentioned therein. None of the aforesaid diseases were taken into consideration at the time of giving opinion refusing the prayer of the petitioner.

The learned advocate appearing for the school submits that the school has forwarded all the medical documents of the petitioner to the CMOH, Jalpaiguri and they are bound by the opinion given by the Chief Medical Officer of Health, Jalpaiguri.

Upon hearing the submissions made on behalf of the parties and upon perusal of the impugned opinion of the Chief Medical Officer of Health, Jalpaiguri dated 2nd September 2019 it appears that seven doctors considered the medical documents of the petitioner and opined that Hypothyroidism does not meet the

requirement of the relevant Rule. The opinion neither speaks nor suggests that the other diseases which the petitioner is suffering from were taken into consideration at the time of taking a decision in the matter.

The petitioner primarily relies upon the gynecological disorders which she is suffering from for the purpose of her transfer. The impugned opinion does not reflect that the gynecological disorders were taken into consideration by the Doctors of the Medical Board which gave the opinion on consideration of the medical documents submitted by the petitioner and duly forwarded by the school.

In view of the above, the instant writ petition is disposed of by directing the Chief Medical Officer of Health, Jalpaiguri to re-examine the medical documents of the petitioner and to provide a fresh opinion after consideration of all the ailments which the petitioner is suffering from. If required, the petitioner may be checked up physically by the Medical Board for taking a decision in the matter. The above exercise shall be completed within a period of one month from the date of communication of a copy of this order. The petitioner shall be entitled to rely upon all the medical documents in support of her case.

The school shall take a fresh decision with regard to issuance of the No Objection Certificate upon

receiving fresh opinion from the Chief Medical Officer of Health, Jalpaiguri.

W.P.A. No. 749 of 2019 is disposed of.

Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)