

Ct. 05
Item Nos.1 & 2
13.09.2021
(suvendu)

WPA 1318 OF 2021
Baligeria Balika Vidyapith (H.S.) & Anr.
Vs.
The State of West Bengal & Ors.

WITH
WPA 11293 OF 2020
Aparajita Karmakar
Vs.
The State of West Bengal & Ors.
(Via Video Conference)

Mr. Uttam Kumar Bhattacharyya
..... for the petitioners(In WPA 1318 OF 2021)

Mr. Ekramul Bari
Ms. Tanuja Basak
..... for the petitioner(In WPA 11293 OF 2020)

Dr. Chapales Bandopadhyay
Ms. Anandamayee Dutta
..... West Bengal Central School Service Commission
(In WPA 1318 OF 2021)

Mr. Bhaskar Prasad Vaisya
Mr. Arindam Chattopadhyay
.....for the State(In WPA 1318 OF 2021)

Ms. Koyeli Bhattacharyya
.....for the West Bengal Board of Secondary Education
(In both the matters)

Affidavit of service filed today on behalf of the writ petitioners in WPA 1318 of 2021 is taken on record.

Writ petitioner in WPA 11293 of 2020 is an Assistant Teacher in Baligeria Balika Vidyapith (H.S.), District –Jhargram (hereinafter ‘said school’), who prayed for transfer on special ground with necessary permission from the said school authority. It appears from page 15 of the said writ

petition that the Secretary of the Managing Committee of said school issued “No Objection” in favour of the writ petitioner, Aparajita Karmakar, on 4th January, 2017. Upon processing the application of Aparajita Karmakar for transfer on special ground, ultimately the memo was issued on 20th January, 2020 by the Chairman, West Bengal Central School Service Commission, thereby recommended for transfer of Aparajita Karmakar from Baligeria Balika Vidyapith (H.S.), District –Jhargram, to another school namely Jhargram Nanibala Balika Vidyalaya (HS), District –Jhargram. Pursuant to such recommendation dated 20th January, 2020, the President, West Bengal Board of Secondary Education on 27th January, 2020 issued transfer order in favour of Aparajita Karmakar.

The grievance of the writ petitioner, Aparajita Karmakar, is that in spite of issuance of recommendation memo by the West Bengal Central School Service Commission as well as transfer order by the West Bengal Board of Secondary Education, the said school authority has not been releasing her, as a result whereof she is unnecessarily being prevented to join her transferred post in Jhargram Nanibala Balika Vidyalaya (HS).

Mr. Ekramul Bari, learned advocate appears on behalf of the writ petitioner, Aparajita Karmakar, and submits that upon following the necessary formalities, application was duly considered by the concerned respondent authorities and ultimately transfer order was issued by the President of the Board of Secondary Education on 27th January, 2020 but due to non-cooperation on the part of the said school authority, the writ petitioner, Aparajita Karmakar, has not been permitted to join her transferred post in Jhargram Nanibala Balika Vidyalaya (HS).

Another writ petition is also before this Court, being WPA 1318 of 2021, filed by the Teacher-in-Charge of Baligeria Balika Vidyapith (H.S.), District –Jhargram, inter alia, challenging the recommendation dated 20th January, 2020 issued by the Chairman, West Bengal Central School Service Commission on the ground that necessary formalities relating to issuance of “No Objection” in favour of Aparajita Karmakar, being the writ petitioner in WPA 11293 of 2020, was not followed by the then Secretary of the Managing Committee of the said school. It has further been contended that Rule 7 of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 was not

complied with while issuing “No Objection” in favour of Aparajita Karmakar, being the Assistant Teacher of Baligeria Balika Vidyapith (H.S.), far back in the year 2017.

Therefore, it is contended on behalf of the said school authority that Aparajita Karmakar, being an Assistant Teacher of the said school, ought not to be permitted to join her transferred post upon issuance of release order in her favour by Baligeria Balika Vidyapith (H.S.).

Both the writ petitions –WPA 11293 of 2020 and WPA 1318 of 2021 are analogously heard today in presence of the learned advocates appearing for the petitioners in the respective writ petitions as well as learned advocates appearing on behalf of the State respondents, West Bengal Central School Service Commission and the West Bengal Board of Secondary Education. Submissions made on behalf of the learned advocates representing respective parties and the relevant records relating to these writ petitions have been considered by this Court.

On careful consideration of both the writ petitions it appears that Aparajita Karmakar, being desirous to be transferred on special ground, first approached Baligeria Balika Vidyapith (H.S.) school authorities and the then Secretary of the

Managing Committee of the said school issued “No Objection” on 4th January, 2017. Subsequently, in terms of the relevant provisions of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015, recommendation Memo was issued by the Chairman, West Bengal Central School Service Commission on 20th January, 2020 in faovur of Aparajita Karmakar for her transfer from Baligeria Balika Vidyapith (H.S.) to Jhargram Nanibala Balika Vidyalaya (HS) and ultimately the President of the Board of Secondary Education issued transfer order dated 27th January, 2020 which could not be given effect to. During course of submissions, specific query has been made by the Court to Mr. Uttam Kumar Bhattacharyya, learned advocate representing Baligeria Balika Vidyapith (H.S.) school authority that as to why “No Objection” was issued in favour of Aparajita Karmakar by the then Secretary of the Managing Committee of Baligeria Balika Vidyapith (H.S.) in the year 2017. It has been replied by Mr. Bhattacharyya that the then Secretary of the Managing Committee of Baligeria Balika Vidyapith (H.S.) without following procedure issued “No Objection” in favour of Aparajita Karmakar but could not satisfy the further query of the Court as

to what steps were taken by the concerned school authority due to issuance of such alleged “No Objection” in favour of Aparajita Karmakar against the then Secretary of the said school. Furthermore, on consideration of chronological facts relating to both the writ petitions, it appears that “No Objection” was issued by the then Secretary of the Managing Committee of the said school on 4th January, 2017 whereas recommendation Memo for transfer as well as transfer order were issued on 20th January, 2020 and 27th January, 2020, respectively, and before issuance of such recommendation memo no steps were taken by the said school authority against such alleged issuance of “No Objection” by the Secretary of the Managing Committee. After finalisation of issues relating to transfer of Aparajita Karmakar, on issuance of transfer order dated 27th January, 2020, the said school authority suddenly woke from slumber and filed the writ petition, being WPA 1318 of 2021, in order to frustrate the transfer order issued by the Board acting upon the application made by Aparajita Karmakar for her transfer on special ground. Therefore, the objection raised by the concerned authority of Baligeria Balika Vidyapith (H.S.) is not tenable and it appears that WPA 1318 of 2021 is

an afterthought writ petition, which was filed only to thwart the attempt of Aparajita Karmakar to be transferred on special ground.

In these conspectus, the writ petition, being WPA 1318 of 2021, is dismissed and the writ petition filed by Aparajita Karmakar, being WPA 11293 of 2020, is allowed, thereby directing the concerned authority of Baligeria Balika Vidyapith (H.S.), being the respondent nos. 4 and 5 in WPA 11293 of 2020, to issue release order in favour of Aparajita Karmakar within a period of seven days from date. On receipt of such release order, the writ petitioner in WPA 11293 of 2020, Aparajita Karmakar, shall be at liberty to join her transferred post in Jhargram Nanibala Balika Vidyalaya (HS) within a period of forty-eight hours thereafter and the concerned authority of Jhargram Nanibala Balika Vidyalaya (HS), District –Jhargram, being the respondent no.6 in WPA 11293 of 2020, is directed to permit Aparajita Karmakar to join her transferred post. On joining of the writ petitioner in Jhargram Nanibala Balika Vidyalaya (HS) school, the concerned authorities of both the schools including the concerned District Inspector of Schools are directed to take necessary steps for transmission of the service records of the writ petitioner to the school where Aparajita

Karmakar is transferred. Delay made in the matter of joining due to non-cooperation on the part of the school authority of Baligeria Balika Vidyapith (H.S.), is condoned.

Accordingly, WPA 1318 of 2021 is dismissed and WPA 11293 of 2020 is disposed of in terms of above observations without any order as to costs.

All parties to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

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

(Saugata Bhattacharyya, J.)

Accordingly, WPA 1318 of 2021 is dismissed and WPA 11293 of 2020 is disposed of in terms of above observations without any order as to costs.