

07.01.2021
Item No.43
Court No.25
Krishnendu

**W.P.A. 2826 of 2019
(Via Video Conference)**

In re: Shreeparna Banik
- Versus -
The State of West Bengal & Ors.

Mr. Ujjal Ray
For the Petitioner
Mr. Maloy Kumar Singh
Mr. Rakesh Singh
For the State

Affidavit of service filed by the petitioner
be kept on record.

No one appears today on behalf of the
school authorities.

Mr. Ray, learned advocate appearing for
the petitioner prays for leave to implead the
Commissioner of School Education as a party
respondent to the present writ petition.

Such prayer is considered and allowed.

The learned advocate-on-record of the
petitioner is directed to effect necessary
correction in the cause title of the writ petition.

As Mr. Maloy Singh, learned advocate
appearing for the State respondents can also
appear on behalf of the added respondent,
fresh service of a copy of the writ petition upon
the said added respondent, is dispensed with.

Mr. Roy submits that the petitioner was appointed to the post of an assistant teacher in Uponchowki High School (H.S.) (in short, the said school). The said school is about 145 kilometers away from her permanent residence at Tufanganj. As the petitioner was facing insurmountable inconvenience to attend her school and as she was also suffering from several ailments, she approached the authorities for general transfer on special ground. At the inception, the petitioner submitted a representation to the respondent no. 5 on 12th June, 2017 praying for issuance of “No Objection” Certificate. As the same was not considered, she submitted a further representation to the school authorities and others on 15th March, 2018 but the same has not been attended to.

In support of the contention that the petitioner’s permanent residence is 145 kilometers away from her school and that she is suffering from several ailments, Mr. Roy has drawn the attention of this Court to the documents, annexed at pages 26 and 27 of the writ petition.

Mr. Singh, learned advocate appearing for the State respondents submits that

presently the claim needs to be considered in terms of the notification issued by the Principal Secretary, School Education Department on 16th October, 2020. The aspirants seeking transfer of any kind from one school to another school is required to apply to the added respondent no. 6, through the respondent no. 3, upon obtaining “No Objection” Certificate from the school authorities.

No explanation is forthcoming as to why the school authorities have not yet considered the petitioner’s prayer for issuance of “No Objection” Certificate pertaining to her claim for transfer.

In view thereof, the writ petition is disposed directing the respondent nos. 4 and 5 to consider the petitioner’s prayer for issuance of “No Objection” Certificate, as contained in the representations dated 12th June, 2017 and 15th March, 2018 and to take a decision, in accordance with law and to communicate the same to the petitioner within a period of four weeks from the date of communication of this order along with a copy of the writ petition.

Needless to observe, in the event the school authorities decide to issue “No Objection” Certificate in favour of the

petitioner, they shall also forward the same to the respondent no. 3 within two weeks from the date of such decision so that the said respondent can take appropriate follow up steps and forward all relevant documents including the NOC to the added respondent no. 6 to enable him to take a final decision as regards the petitioner's prayer for general transfer on special ground, in accordance with law, forthwith.

The petitioner shall also submit afresh an application for transfer along with the NOC, if issued, to the added respondent no. 6 to enable him to take a final decision on such application, forthwith.

With the above observations and directions, the writ petition is disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties upon compliance of all necessary formalities.

(Tapabrata Chakraborty, J.)

