

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

(Through Video Conference)

WPA 9861 of 2021

Popy Ghosh
Vs.
The State of West Bengal & Ors.

Mr. R. Guha Thakurata
Mr. Subhojit Ghosh
... For the petitioner

Mr. Prosenjit Mukherjee
Ms. Madhurima Sarkar
... For Madrasah Service Commission

The petitioner says that she is serving as an Assistant Teacher in Geography at Janakinagar High Madrasah (HS), Post Office – Plassey Sugar Mill, District – Nadia (hereinafter referred to as the “said Madrasah”) since 2018. The petitioner says that her residence is about 300 km. from the said Madrasah. The petitioner has a five-year-old daughter and her husband is staying at Ghatal in the district of Paschim Medinipur for his work purpose. The petitioner is seriously inconvenienced as she has to stay all alone with a five-year-old child at a place close to the said Madrasah to serve thereat. The petitioner, therefor, is interested to apply for the general transfer but is unable to do so as the “No Objection” necessary to apply for general transfer has not been granted by the said Madrasah. The “No Objection”,

according to the petitioner, is a pre-condition for applying and availing the general transfer. The petitioner says that the Managing Committee of the said Madrasah by a decision taken on 5th March, 2021 has, inter alia, decided that except the librarian, no other teaching and non-teaching staff of the said Madrasah shall be given “No Objection” for general transfer.

It appears that under the West Bengal Madrasah Service Commission Recruitment (Selection and Recommendation of Persons for Appointment and Transfer to the Posts of Teacher and non-teaching Staff) Rules, 2010 (hereinafter referred to as the “2010 Rules”), the Managing Committee of the said Madrasah cannot withhold the “No Objection” in favour of the petitioner to enable her to apply for the general transfer.

In the facts and circumstances of the case, the Managing Committee of Janakinagar High Madrasah (HS) is directed to issue “No Objection” to the petitioner within ten days from date, on the basis of a communication made by the petitioner and/or her advocate by enclosing a server copy of this order without insisting upon a certified copy thereof. The petitioner shall, within 30th June, 2021, being the cut off date, apply for availing the general transfer in terms of the 2010 Rules.

In the event, the Managing Committee of Janakinagar High Madrasah (HS) fails to issue the “No

Objection Certificate”, to the petitioner, within the timeframe provided, the petitioner shall be entitled to apply for availing the general transfer under the 2010 Rules, subject to producing the “No Objection Certificate” on or before her transfer, if approved, is effected, by obtaining a “No Objection” from the concerned District Inspector of Schools under Rule 33(2)(b) of the 2010 Rules.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted.

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

(Arindam Mukherjee, J.)