

31 09.11.2021
rkd Ct.05

W.P.A. 15021 of 2021
(Through Video Conference)

Shrabanti Tripathy

-vs-

The State of West Bengal & Ors.

Ms. Mousumi Bhowal

....for the petitioner.

Ms. Shohini Chakraborty,
Ms. P. Das

....for the respondent nos.6 & 7.

Dr. Sutanu Kuamar Patra,
Ms. Supriya Dubey,
Ms. Deblina Chakraborty

....for the W.B.C.S.S.C.

Mr. Swapan Kumar Datta,
Mr. P. K. Das

....for the State.

Affidavit-of-service filed in Court is taken on
record.

This is a writ petition at the instance of an assistant teacher working in a Government aided secondary school. Writ petitioner made an application dated 22nd June, 2019 addressed to the President of Bishalakshimipur Siddhawanda Madhyamik Balika Vidyalaya (HS), District- South 24 Parganas (for short 'said school') seeking issuance of 'no objection' in her favour in order to make an application before the concerned respondent authorities for transfer on special ground in terms of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 (hereinafter

referred to as “Rules of 2015”). The grievance voiced by the writ petitioner before this Court is that in spite of making an application for issuance of ‘no objection’ by her no steps have been taken by the said school authority though application has been made on the ground that petitioner’s son is suffering from serious ailments. In support of her prayer made before the said school authority petitioner enclosed necessary medical documents which goes to show that the son of the petitioner was under treatment due to such ailments.

Ms. Chakraborty, learned advocate appears on behalf of the said school authority and submits that though there are certain other grounds but the main ground which actually prevented the said school authority from issuing ‘no objection’ in favour of the writ petitioner is that the writ petitioner is the sole assistant teacher in Work Education and Physical Education Group in the said school and the school is located in remote area in the district of South 24 Parganas. Therefore if the writ petitioner is released authority of the said school will find it difficult to make alternative arrangement for importing lessons to the students of the said schools specially in the subject of Work Education and Physical Education. In addition

thereto other points have been taken by the said school authority that there is confusion with regard to the permanent address of the writ petitioner and school authority has also disputed the ailments of the writ petitioner's son as canvassed in the application dated 22nd June, 2019.

Dr. Partra, leaned advocate appears on behalf of the West Bengal Central School Service Commission and submits that if her application is made in accordance with the relevant provisions of the said Rules of 2015 same can be processed but at the same time notice of this Court has been drawn to Rule 7 of the said Rules of 2015 in order to demonstrate before this Court that if application for transfer on special ground has been made by a teacher on the ground of ailments then it is within the domain of the school authority where the petitioner is working to find out by taking necessary steps whether at all such ground is a valid one for seeking 'no objection' from the said school authority.

Mr. Datta, learned Additional Government Pleader appears on behalf of the State respondents and reiterates the submissions made on behalf of the School Service Commission and he has also submitted that if application in accordance with

law is made for transfer of the writ petitioner then same can be decided by the concerned authority.

Having considered the rival contentions of the parties to this writ petition this Court directs the school authority of Bishalakshimipur Siddhawanda Madhyamik Balika Vidyalaya (HS), District- South 24 Parganas to take final decision on the application of the writ petitioner dated 22nd June, 2019, page 35, Annexure P-4 of the writ petition, and if it is found that writ petitioner is entitled to receive 'no objection' from the school authority in terms of the relevant provisions of the Rules of 2015 the said school authority shall issue 'no objection' within a period of fortnight from this date. If the application of the petitioner is rejected by the said school authority adequate reasons has to be given in support of the same. If the application of the petitioner seeking 'no objection' is allowed by the said school authority in that event necessary steps shall be taken by the concerned respondent authorities for taking a final decision on the application of the writ petitioner seeking transfer on special ground after receiving the same from the writ petitioner or the said school authority.

With the above direction, the writ petition is

disposed of.

There shall be no order as to costs.

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

(Saugata Bhattacharyya, J.)