

20-09-2021
ct no. 05
Sl. 27
Sayandeep

W.P.A. 14724 of 2021

Sudip Bhowmik

-Versus-

The State of West Bengal & Ors.
(Via Video Conference)

Mr. Anjan Bhattacharya

...for the petitioner

Ms. Chaitali Bhattacharya

Mr. Subhendu Roychoudhury

.....for the State

Writ petitioner is an assistant teacher in Ramkrishna Mission Vivekananda Vidyamandir who made an application for transfer on special ground in terms of the relevant provisions of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 (hereinafter referred to as the said 'Rules of 2015'). The attention of this Court has been drawn to the memo dated 25th October, 2016 issued by the District Inspector of Schools(SE), Malda addressed to the Secretary, School Education Department whereby a list of 16 teachers working in the District of Malda along with necessary papers were sent to the Secretary, School Education Department for consideration.

Mr. Anjan Bhattacharya, learned advocate, appears on behalf of the writ petitioner and submits

that the name of the writ petitioner appears at serial No. 3 of the said list of 16 teachers, cases of whom, were forwarded vide said memo dated 25th October, 2016 to the Secretary, School Education Department. Grievance has been voiced that in spite of sending papers relating to transfer of the writ petitioner on special ground till date, the Secretary, School Education Department has not taken any decision and the issue is kept pending before him.

Ms. Chaitali Bhattacharya, learned senior Government advocate, appears on behalf of the State respondents and submits that the transfer of the petitioner on special ground in terms of the said Rules of 2015 may not be considered since the writ petitioner is working in Ramkrishna Mission Vivekananda Vidyamandir which is coming under the purview of notification dated 6th September, 2012, annexure P-4 of this writ petition.

This Court has considered the rival contentions of the parties to this writ petition and finds that the case of the writ petitioner was forwarded by the District Inspectors of Schools(SE). Malda far back on 25th October, 2016 to the Secretary, School Education Department, respondent No. 1, for taking decision with regard to transfer of writ petitioner along with 15 other assistant teachers working in the District of Malda.

If the notification dated 6th September, 2012 imposes a restriction regarding the transfer of the writ petitioner being an assistant teacher of Ramkrishna Mission Vivekananda Vidyamandir, in that event, perhaps the District Inspector of Schools(SE), Malda could not have forwarded the name of the writ petitioner as one of the candidates vide his memo dated 25th October, 2016. Therefore, this Court finds it apposite to direct the Secretary, School Education Department, Government of West Bengal, respondent No. 1, to take a decision on transfer of the writ petitioner considering his application which he preferred in terms of the said Rules of 2015 as well as memo dated 25th October, 2016, within a period of twelve weeks from the date of communication of this order. Before taking such decision, the respondent No. 1 is directed to give opportunity of hearing to the writ petitioner and the concerned School authority. If the case of the writ petitioner is allowed, in that event, the respondent authorities are directed to take consequential steps for transfer from his present school to the post where he is to be transferred. In the event of refusal of the prayer of the writ petitioner for transfer, the respondent No. 1 is directed to assign adequate reasons in support of such refusal. Such decision is to be communicated to the writ petitioner within two weeks thereafter.

With the above observations, the writ petition stands disposed of.

There shall be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

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

(Saugata Bhattacharyya, J.)