

17. 02. 2022
BP
Sl. 305
Court No. 17

WPA 1138 of 2022

(Via Video Conference)

Soma Khatua
Vs.
The State of West Bengal & Ors.

Mr. Shamim ul Bari
Ms. Molly Saha
..for the petitioner.

Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
..for the SSC.

Sk. Mujibar Rahman
Mr. Amritalal Chatterjee
..for the State.

Ms. Baisali Basu
..for the respondent no.8.

Affidavit of service filed in court today be kept on record.

The petitioner has filed an application for transfer through Utsoshree portal second time on 10th September, 2021. But her application has not been forwarded by the school though she applied for General Transfer on Special Ground under Rule 4(1)(A) as her son is suffering from physical disablement of 60% as has been decided by the District Hospital Howrah. Therefore, the General Transfer on Special Ground

application cannot be returned back to her either by the school or by any other authority.

Regarding the distance learned advocate for the school vehemently raises the point that the distance between the petitioner's residence and the school is less than 25 kilometres. But this factor of distance is applicable for primary condition of general transfer and not in respect of General Transfer on Special Ground. While primary condition is in Rule 3 of the above mentioned rules General Transfer on special grounds is in Rule 5 and therefore, the objection raised time and again by the learned advocate of the school as to distance is not accepted by this court.

The school is directed to consider the matter afresh. The decision of the school as appears in page 39 of the writ application for not recommending the case of the petitioner is set aside and quashed which also appears from page 50 of the writ application which has been sent from the Utsoshree portal.

Therefore, the school is directed to send the application for transfer of the petitioner along with a copy of this order to the appropriate authority immediately within a period of seven days from the date of communication of this order. The authority to whom the application will be sent, will take appropriate steps in respect of the petitioner's transfer within a period of

three months from the date of receiving the papers of the petitioner. If the petitioner is otherwise eligible for her transfer, the entire process in respect of transfer of the petitioner shall be completed within the aforesaid time period of 3 (three) months by the appropriate authority, being the Commissioner of School Education.

Learned advocate for the school has prayed for filing affidavit in opposition but as the rule is against the school and in favour of the petitioner no affidavit can improve the situation and thus liberty to file affidavit has not been granted by this court.

The writ application is disposed of.

(Abhijit Gangopadhyay, J.)

