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15.03
2022
Ct. No.17

WPA 1572 of 2022

Goutam Sardar
Vs.
The State of W. B. & Ors.

Mr. Shuvro Prokash Lahiri
.....For the Petitioner
Mr. S. Chatterjee
Mr. M. S. Chattopadhyay
.....For the Respondent No.6

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

The petitioner filed his application for transfer from one school to another on 31.08.2021. His application has been sent back to him from the end of the Head of the Institution on 21st October, 2021 as appears from Annexure 'P-3' of the writ application and the petitioner again made another application on 06.01.2022 which again came back to the petitioner on 20.01.2022 on the ground of "more than 10 percentage". The strength of the teacher in the school is 41 and, therefore, the school can send five applications for transfer within the 10% Rule if it is applicable to the petitioner at all.

The petitioner submitted that the school is counting three rejected applications of teachers who applied for transfer also and on the basis of such counting, the school has not forwarded any further

application for transfer.

The view of the school in counting the sent back applications of teachers within the 10% Rule of total teachers is wrong. The teachers whose applications have come back cannot be counted for the said 10% Rule because such teachers are in the school and has not been transferred. The relevant provision as to 10% of total member of teachers is to be read meaningfully to understand the intention of the Rule-makers. It should not be read mechanically.

Hence, the petitioner's application is required to be processed and sent to the next authority by the school. The decision of the school for returning the application to the petitioner is quashed and set aside.

The school is directed to proceed with the matter afresh within the period of seven days from the date of communication of this order to the school.

The petitioner shall have the liberty to file a fresh application because the school is selected earlier for transfer may not be available now. The petitioner should get an opportunity to file further application for selection of schools including the earlier selected schools, if those posts in the schools are still vacant.

(Abhijit Gangopadhyay, J.)

