

10.05.2022
Item No.102
Ct. No.17
S.A.

W.P.A. 2218 of 2022

Jayasri Das
-vs-
State of West Bengal & Ors.

Ms. Sreyanshi Majumdar
...for the petitioner
Mr. Supriyo Chattopadhyay, Sr. Govt. Adv.
Ms. Sayantanee Bhattacharjee
...for the State
Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
...for the SSC

The petitioner filed her first application for transfer on 19.08.2021 and from the Utsashree portal in respect of that application it is found that the District Inspector of Schools (S.E.) returned the application to the Head of the Institution with the following remark "in NOC there is no mention regarding no objection from MC". This shows that there was one no objection certificate. It has not been mentioned who issued the no objection certificate though it has been mentioned who did not issue the no objection certificate. The Head of the Institution on 01.10.2021 forwarded the application to the said D.I. with the remarks that "the school is under Drawing and Disbursement Officer and so it is not possible to adopt MC resolution for NOC". The Head of the Institution further wrote that "documents and

check list are verified and found in order. The application is forwarded to DI for further action”.

When the petitioner first filed her application, her application was not considered for total non-application of mind which shows enough injustice to a lady teacher because the Headmaster of her school clearly remarked that he had no objection if the teacher/petitioner was transferred. The first application was made by this teacher/petitioner when there was no existence of the Government Memo dated 22nd September, 2021. As there was no Managing Committee, there was no question of giving no objection to the petitioner by the Managing Committee. The DDO also was not having the power of the Managing Committee, he was only appointed for drawing and disbursing of salaries and other expenses. The most important person of the school - the Head of the Institution gave one no objection which is recorded in the Utsashree portal in the form of remarks stating that “I have no objection to release her from the post of A.T. for better placement”. This court fails to understand what better thing could be done by the Headmaster in the absence of the Managing Committee of the School while supporting the transfer application of the petitioner. The District Inspector of Schools have acted as a mindless bureaucrat who did the injustice by making the remark on 25.08.2021 stating that the NOC was not

taken from the Managing Committee. This is clearly a feelingless bureaucratic attitude on the part of the District Inspector of Schools while rejecting the application of a bona fide teacher who was working in the school satisfactorily from 18.08.2010. This also appears from the remarks in the Utsashree portal.

The petitioner seeing no other alternative filed the second application when the conditions put by the Government in respect of single teacher had already come into effect. However, the second application was not at all required to be filed if justice was done to the petitioner on the part of the District Inspector when remark of the Headmaster as to no objection was there. Therefore, in the facts and circumstances of the case the second application made by the petitioner is to be treated as of no effect. This second application was not made by the petitioner voluntarily but under compulsion and therefore there is no question of abandonment of a known right by the petitioner. The first application of the petitioner dated 19.08.2021 has to be considered by the District Inspector of Schools as an application with no objection of the Headmaster of the school and the District Inspector of Schools is directed to forward the said application immediately by 14th May, 2022 to the School Service Commission and the School Service Commission is directed to take steps by three weeks from the date of forwarding the application of the

petitioner dated 19.08.2021 and to issue transfer order if the petitioner is otherwise eligible.

This court hopes and expects that no further injustice would be caused to the petitioner because she filed her application for transfer on the ground of distance of 75 kms of her present school from her residence and she has a child of five years of age.

With the above observation and direction, this writ application is disposed of.

(Abhijit Gangopadhyay, J.)