

25.02.2022
SL No. 49
Court No. 24
(P.M)

WPA 2497 of 2022

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

Mr. Sudip Ghosh Chowdhury,
Mr. Argha Das,
Mr. Abhishek Bose
... for the petitioner.

Mr. Supriyo Chattopadhyay,
Mr. Suman Dey
... for the State

Mr. Bhaskar Prasad Vaisya,
Mr. Sagnik Chatterjee
... for DPSC, South 24-Parganas

The petitioner is a primary school teacher. He applied for transfer in the Utsashree portal on 24th December, 2021. The application of the petitioner was forwarded from the circle to the Secretary of the District Primary School Council and returned back to the petitioner on 3rd January, 2022 with the remark “sent back from DPSC, if the teacher is released, the school will be left with a single teacher”.

The petitioner has categorically submitted that there are only nineteen students in the school with two teachers. Assuming that the petitioner is allowed to be transferred even then the pupil-teacher ratio will be maintained as one teacher will be there to take care of all the students of the school.

The petitioner submits that he has suffered leg injury and it is practically impossible for him to transfer such long distance to attend the school. He has averred that the distance from his residence to his school is about 140 km.

The petitioner forwarded a representation over electronic mail to the District Primary School Council with a request for transfer. The same has not been considered.

Learned advocate representing the District Primary School Council submits that according to the provisions of the Right of Children to Free and Compulsory Education Act, 2009 there is a requirement of having two teachers in a school with less than sixty students. If the petitioner is permitted to be transferred, the school will be left with one teacher.

The submission of the Council cannot stand in the way of a teacher to seek transfer when the same is permissible in law. It is for the Council to arrange teachers for running the school but the Council cannot oppose transfer of a teacher from one school to the other more so because the service is a transferrable one.

In view of the above, the instant writ petition is disposed of by granting leave to the petitioner to make

a formal application before the Chairman of the District Primary School Council, South 24 Parganas.

In the event, such an application is made along with all relevant documents, the same shall be considered by the Chairman of the District Primary School Council being the respondent No. 3 herein strictly in accordance with the service rules of the petitioner at the earliest, but positively within a period of six weeks from the date of communication of a copy of this order.

The said respondent shall pass a reasoned order and communicate the same to the petitioner immediately thereafter.

The writ petition stands disposed of.

Affidavit of service filed in court today is taken on record.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)