

09.06.2022.
Court No.13
Item No. 52
ap

W.P.A. No. 2872 of 2022
Dipanwita Bhattacharya
Versus
The Commissioner of School Education of West
Bengal & Ors.

Mr. Jayanta Das,
Mr. Somnath Bhattacharjee,
Ms. Sharmistha Paul.

...For the petitioner.

Dr. Sutanu Kumar Patra,
Ms. Supriya Dubey.

..For the WBCSSC.

The Central School Service Commission be added as party respondent to this proceeding. Counsel for the petitioner shall carry out necessary amendments in the cause title of the writ petition in course of the day.

Dr. Patra, learned Advocate, who ordinarily represents on behalf of the West Bengal Central School Service Commission, is requested to represent the Commission.

In terms of the order dated 17th March, 2022, passed by a Co-ordinate Bench of this Court, the Commissioner of School Education has given a personal hearing to the writ petitioner and has passed a reasoned order dated 21st April, 2022.

The petitioner has brought the same on record by way of supplementary affidavit. The same is taken on record.

It appears from the said order dated 21st April, 2022, that the Commissioner of School Education has also not disputed the medical condition of the petitioner. However, since her spinal cord injury is not a 'Severe Medical Condition' in terms of the General Transfer Rules of 2015, the Commissioner has declined to accede to the request of the petitioner.

This Court does not otherwise find any infirmity in the said order of the Commissioner of School Education.

However, given the fact that the actual medical condition, available in the documents of Christian Medical College, Vellore, annexed to the instant writ petition, not having been verified independently by the Medical Authority in West Bengal, this Court directs the Commissioner of School Education, West Bengal, to independently ascertain the medical condition of the petitioner through CMOH, Hooghly.

For the aforesaid purpose, the petitioner shall carry all medical documents to be placed before the CMOH, Hooghly, who shall cause an independent medical examination of the petitioner.

A report shall be submitted by CMOH, Hooghly, to the Commissioner of School Education, indicating as to whether the petitioner would, in fact, have difficulties in travelling the distance from her residence at Bhadreshwar to her School at Arambagh, Hooghly,

or not or suffer any other medical discomfort in doing so.

The CMOH, Hooghly, shall submit a report to the Commissioner of School Education, West Bengal, within a period of two weeks after the petitioner presents herself for medical examination based on this order.

The Commissioner of School Education, West Bengal, if satisfied with the medical predicament of the petitioner, as expressed in the writ petition, shall recommend transfer of the petitioner to any schools within a distance of 25 kilometers from her residence, and upon such recommendation from the concerned District Inspector of Schools shall issue orders.

The entire exercise shall be completed by the authorities, as indicated hereinabove, within a period of 45 days from date.

The registry of this Court shall communicate this order to the CMOH, Hooghly, for taking necessary steps in the matter. The petitioner may also do so in the meantime.

Copies of this order shall be independently served by the petitioner on the Commissioner of School Education, West Bengal.

With the aforesaid observations, the instant writ petition shall stand disposed of.

There will 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.

(Rajasekhar Mantha, J.)