

18.08.2022
Court No.13
Item No.219
pk

WPA 3876 of 2022

**Bibhas Chandra Ghorai and others
Vs.
The State of West Bengal & Ors**

Mr. Kamalesh Bhattacharya,
Mr. Shahan Shah

... for the petitioners.

Mr. Supriyo Chattopadhyay,
Mr. Sabyasachi Mondal

... for the State.

Dr. Sutanu Kumar Patra,
Ms. Supriya Dubey

... for the WBCSSC.

Affidavit of service is taken on record.

The petitioners were appointed by the West Bengal Central School Service Commission in Madrasahs and not by the West Bengal Madrasah Service Commission on 13.11.2007.

The Madrasah Service Commission came into being in 2008. The petitioners did not have any option to select their place of work by way of counselling at that point of time and it was the West Bengal Central School Service Commission which recommended them to the Madrasahs. At that relevant time, appointments both Madrasahs and State-sponsored schools were covered by the West Bengal School Service Commission Act, 1997.

Pursuant to the Regional Level Selection Test, candidates were appointed both to schools and Madrasahs.

The petitioners are aggrieved that candidates who appeared in the Regional Level Selection Test conducted by the School Service Commission appointed in schools avail the transfer facility through Utsashree portal but the petitioners have no such choice. They are compelled to work and remain in Madrasahs nominated by the School Service Commission.

In my view, this is clearly a violation of Articles 14 and 16 of the Constitution of India. The petitioners are being discriminated. Therefore, I direct the Principal Secretary of the School Education Department to consider the case of the petitioners who seek transfer through the Utsashree portal or any other such procedure under Madrasah Service Commission. Any other similar avenue may also be made available.

I direct the Principal Secretary of School Education Department to hear the Madrasah Service Commission and the petitioners and pass a reasoned order.

This exercise may be completed by the Principal Secretary of School Education Department within eight weeks from date of communication of this order.

With the aforesaid observations and directions, this writ petition is disposed of.

Urgent Photostat certified copy of this order,
if applied for, be given to the parties, on priority
basis.

(Rajasekhar Mantha, J.)