

Item No.14
Ct. No.24
13.04.2022
TN

WPA No. 4358 of 2022

Sanjoy Patra
Vs.
The State of West Bengal and others

Mr. Partha Sarathi Deb Barman,
Mr. Saurov Mallick
.... for the petitioner

Mr. Swapan Banerjee,
Ms. Salma Sultana Shah
.... for the State

Mr. Ranjan Saha
.... for the D.P.S.C., Paschim Medinipur

Affidavit-of-service filed in Court today be taken
on record.

The petitioner, a primary school teacher, seeks
transfer. His application for transfer has not been
allowed and no reason for disallowing the prayer of the
petitioner for transfer has been intimated to him.

Learned advocate appearing for the District
Primary School Council, Paschim Medinipur submits,
upon instruction, that in the school, there are eighty-
five students with three teachers and one para
teacher. The senior most teacher of the school applied

for transfer and his application for transfer has been accepted. The second senior most teacher of the school applied for transfer on medical ground and the petitioner, being the third teacher of the school, also applied for transfer. If all the three teachers, who applied for transfer, are permitted to be transferred to separate schools, then the present school will not be in a position to function and the students will suffer.

Learned advocate for the State respondents relies on the provision of the RTE Act and submits that the teacher-student ratio cannot be maintained if the application for transfer of the petitioner is allowed.

Learned advocate for the petitioner relies upon the West Bengal Primary Education (Transfer of Teacher including Head Teacher) Rules, 2002 (hereinafter referred to as “the 2002 Rules”).

According to Rule 3 of the 2002 Rules, a primary school with forty pupils will have one teacher. A second teacher may be admissible when the roll strength exceeds sixty. A third teacher may be admissible when the roll strength exceeds one hundred. In no case, a primary school is to have less than two teachers.

According to Rule 4 of the 2002 Rules, the Council may transfer a teacher on its own motion or on an application made from the teacher. The order of

preference has also been mentioned in Rule 4 of the 2002 Rules. The Rule further says that transfer of an approved teacher may be made without maintaining any time-limit of service.

In the present case, it appears that out of three regular teachers, all the three of them applied for transfer. It is true that if the applications of all the three teachers are allowed, then the school will not be in a position to function.

Accordingly, the District Inspector of Schools is directed to take steps to ensure that primary teacher from other schools may be deputed to conduct the classes of the school in question.

The application of the petitioner for transfer may be deferred for a short period of time, so as to ensure that the school is not left without any teacher. The moment an alternative arrangement is made by the District Inspector of Schools, then the application for transfer made by the petitioner shall immediately be taken up for consideration.

The District Inspector of Schools shall take effective steps and endeavour to ensure that a separate teacher is appointed in the school in question so that the petitioner's application for transfer may be considered positively.

The writ petition stands disposed of.

Instruction given by the Sub-Inspector of Schools is taken on record.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

(Amrita Sinha, J.)