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28.04.2022
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 4494 of 2022

**Soumyajit Maity
-versus
State of West Bengal & Ors.**

**Mr. Kaustav Chandra Das,
Mr. Sk. Sahjahan Ali.
...For the Petitioner.**

**Mr. Pinaki Dhole.
...For the State.**

**Mr. Ranjan Saha.
...For the DPSC.**

The petitioner's request for transfer on medical ground has been turned down by the Council allegedly on account of non-maintaining the teacher-student ratio of the school.

It has been submitted that there are 130 students in the school with five teachers. If the petitioner is permitted to be transferred, then the teacher-student ratio cannot be maintained in accordance with the Right to Education Act.

The aforesaid reason for not considering the application of the petitioner for transfer cannot be sustained in law.

The petitioner has already been examined by the Medical Board on 10th February, 2022 but the report is yet to be communicated to him.

As it is settled law that the transfer of a confirmed teacher cannot be stalled in view of non-maintaining the teacher-pupil ratio, accordingly, the instant writ petition is disposed of by directing the Chairman of the District Primary School Council, Paschim Medinipur to take steps for consideration of the petitioner's application for transfer on medical ground at the earliest, but positively within a period of four weeks from the date of communication of a copy of this order.

The Chairman shall take into consideration the report of the medical examination conducted by the Medical Board and thereafter take a decision in the matter.

The prayer of the petitioner cannot, however, be rejected on the ground of non-maintaining the pupil-teacher ratio.

The petitioner shall be communicated the fate of his application immediately thereafter.

In the event the pupil-teacher ratio of the school cannot be maintained, then the Chairman shall take necessary steps for arranging teacher from the nearby schools so that the studies of the students in the said school is not hampered in any manner whatsoever.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)