

02.05.2022
SL No. 27
Court No. 24
(P.M)

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

WPA 5145 of 2022

**Kalipada Das
Vs
The State of West Bengal & Ors.**

Mr. Bapin Baidya,
Mr. Sandipan Pal
... for the petitioner

Mr. Bhaskar Prasad Vaisya,
Mr. Gaurav Das
... for DPSC South 24-
parganas

Mr. Arindam Chattopadhyay,
Ms. Lipika Chatterjee
... for the State

The order dated 1st February, 2022 passed by the Chairman, South 24-Parganas District Primary School Council rejecting the prayer of the petitioner for transfer from his present school i.e. Bhajna Halder Para FP School under Pathar Pratima North Circle to Parbatipur Sridharpur FP School under Pathar Pratima North Circle is under challenge in the present writ petition.

The primary reason for challenge is that at the time of making application for transfer, the scheme under Utshasree vide Memo dated 2nd September, 2021 did not come into force. The respondent authority illegally and arbitrarily

considered the application of the petitioner in accordance with the Utshasree scheme.

The petitioner submits that according to the guidelines in the said Utshasree portal, no application for transfer shall be entertained if the applicant intends to get transferred in a school within the same circle.

The petitioner has applied for transfer on medical grounds. He has annexed documents to show that it is practically impossible for him to travel nearly 100 Km. per day (up and down) to serve his present school.

It has been submitted that the petitioner suffers from acute spinal cord problem and he has been advised by the doctor not to travel by way of bicycle or van.

It has been submitted that in order to attend the school, the petitioner is required to travel by rickshaw, ferry, tricycle van and thereafter bicycle. The same is taking a toll on his health, and as such the petitioner prays for transfer to any school which is nearby his residence.

It appears from the impugned order that the Council relied upon the guidelines as mentioned in the Utshasree Portal. The condition that the application for transfer shall not be entertained if the applicant intends to get transferred in a school

within the same circle is not one of the conditions for transfer as mentioned in the West Bengal Primary Education (Transfer of Teachers including the Head Teacher), Rules, 2002.

The Council is bound to act in accordance with the Rules framed by the Government and not according to any guideline(s) in accordance with which the application for transfer is considered at present.

The petitioner has cited medical reason for being transferred from his present school to a school nearby his residence. The Chairman ought to take into consideration the application of the petitioner strictly on medical grounds and dispose of the representation of the petitioner made on 4th August, 2021 strictly in accordance with law.

The order impugned dated 1st February, 2022 is set aside.

The Chairman of the District Primary School Council, South 24 Parganas is directed to reconsider the application of the petitioner for transfer taking into consideration his medical issues and pass a reasoned order within a period of three weeks from the date of communication of a copy of this order and communicate the reasoned order to the petitioner immediately thereafter. If required, an opportunity of hearing may be granted

to the petitioner to produce all medical documents in support of his ailment.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)