

25.08.2022
Court No.13
Item No.220
pk

WPA 8961 of 2022

**Sangita Roy
Vs.
The State of West Bengal and Ors.**

Mr. Firdous Samim,
Ms. Gopa Biswas

... for the petitioner.

Mr. Sourav Mitra,
Mr. Suman Dey.

..for the WBCSSC.

Mr. S. Mandal,
Mr. S. C. Dhara

... for the respondent nos. 7 and 8.

The petitioner's application for transfer on the ground of 90% physical disability of her son is pending consideration of the Head of the Institution.

Counsel for the School submits that she is the only teacher in Higher Secondary Section in Bio Science. The petitioner is availing second transfer after an earlier mutual transfer. The distance between the petitioner's present residence and the school is 25.8 kms.

Counsel for the petitioner, however, argues by reference of the Disabilities Act, 2016 particularly Section 31 thereof, that a child with Autism, is required to be given a school of its choice. In the instant case, choice of schools is therefore lying with the mother since the child is minor.

In those circumstances, the Head of the Institution shall obtain independent medical opinion of the BMOH as

regards the disability and the ailments of the petitioner's child.

Based on the opinion, the application shall be forwarded and dealt with by the D.I. of Schools(SE) and the School Service Commission.

The aforesaid process shall be completed by the respondents within the time framed stipulated under the Notification dated 21.12.2021.

Upon transfer of the petitioner, if any, a suitable teacher shall be posted by the respondents to replace the petitioner.

For the aforesaid purpose, the petitioner shall make an application afresh for transfer indicating new choice of schools.

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

There will be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)