

02 05.12.2022
Sc Ct. no.22

WPA 10704 OF 2022

Koyel Mandal

Vs.

State of West Bengal & Ors.

Mr. Ashis Kumar Paul

.... For the Petitioner

Mr. Jahar Dutta
Mr. Bipin Ghosh.

.... For the Respondent
Nos.1 and 3

Dr. Sutanu Kr. Patra
Ms. Supriya Dubey.

.... For the Respondent
Nos.5 and 6

Affidavit-of-service filed in Court is taken on record.

The writ petitioner claims to be an **Assistant Teacher at Asutia Sarojini Vidyapith, District - Purba Medinipur**. She applied for transfer through **Utsashree Portal** on August 19, 2021, **Annexure-P8** at page 35 to the writ petition. The ground on which the transfer was sought for **principally medical ground and travelling of distance**. The relevant medical certificates relied upon are at pages 37 and 38 to the writ petition.

The relevant school authority respondent nos. 7 and 8 are not represented.

Mr. Jahar Dutta, learned State counsel represents the respondent nos. 1 and 3. He submitted that on and from September 30, 2022 by virtue of policy decision, taken by the State authority, the **Utsashree Poratal** remains suspended till December 31, 2022.

Ms. Supriya Dubey, learned counsel represents the respondent nos. 5 and 6.

After considering the rival submissions made on behalf of the parties and after considering the materials on record it appears to this Court that the application for transfer was made on August 19, 2021 much prior to the ***Utsashree Portal*** was suspended. Till then, the application was lying pending without any consideration even.

In view of the above, the Secretary of the respondent no.6 is directed to consider the application of the petitioner for transfer on the basis of the existing records when the petitioner was first applied for transfer after giving a prior seven days' hearing notice to the petitioner, the respondent no.3 and the respondent nos.7 and 8 and then after giving them an opportunity of hearing shall decide the issue and pass its reasoned order/decision.

To consider the case for transfer of a teacher the interest of the students of the relevant school shall be of paramount consideration. The respondent nos. 7 and 8 shall file a report before the secretary of the respondent no.6, who will hear the matter, which shall indicate the total number of students in the school, the number of students are being taught the relevant subject which is being taught by the petitioner and how many teachers are there for such subject in the school.

The respondent no.8 shall also indicate whether in the absence of the petitioner after transfer he shall meet the requirement of the teacher strength for the relevant subject.

For the medical ground as shown by the petitioner, the hearing authority shall be at liberty to send the petitioner for further medical examination if he thinks fit through a medical board of a Government hospital and obtain the necessary report therefrom.

The entire exercise, as directed above, shall be carried out and completed by the respondent no.6 positively within a period of ten weeks from the date of communication of this order. The hearing authority then shall communicate its reasoned decision to the petitioner and all concerned within a further period of two weeks from the date of the said reasoned order to be passed.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

It is further made clear that this order shall not create any equity or right in favour of the petitioner if the petitioner is otherwise not eligible for her claim strictly in accordance with law and after considering the facts as indicated above.

On the above terms, this writ petition , **WPA 10704 of 2022** stands disposed of without any order as to costs.

Photostat certified copy of this order, if applied for,
be furnished expeditiously.

(Aniruddha Roy, J.)