

22.12.2022
Item no. 134

WPA 15267 of 2022

**Nandini Saha Bhattacharya
-Versus-
State of West Bengal and Ors.**

For the petitioner: Mr.Biswarup Bhattacharya, Adv.
Mr. Sukanta Ghosh, Adv.

For the respondent : Mr. Susnigdho Bhattacharyya, Adv
no. 8 and 9:

For the WBCSSC: Dr. Sutanu Kumar Patra, Adv.
Ms. Supriya Dubey, Adv.

In this writ application, the writ petitioner is aggrieved with the decision of the respondent no.9 as communicated to her with the following remarks:

“unfortunately you have misguided the SMC by giving wrong scoring of your application. It is a kind of offence. So, your application is rejected and we are compelled to back it to you.”

In support of the instant writ petition Mr.Bhattacharyya, learned advocate for the writ petitioner has taken me to the different notifications regarding transfer of teacher which have been annexed with the instant writ petition. It is contended by him that in the notification no.707/SE/S/1S-04/95 (Pt) dated 8.9.2021 as issued by the School Education Department, Government of West Bengal, there is a provision for awarding marks in case of transfer for any other reasons.

It is contended by him that after making the application for transfer the writ petitioner has forwarded the score sheet with names to the respondent no.9 on the basis of the aforementioned guideline so as to enable the respondent no.9 to forward her application smoothly before the appropriate authority. It is contended by the learned advocate for the petitioner that after forwarding such marks through e-mail the respondent no.9 returned the application of the present writ petitioner with the aforementioned remarks which is not only wrong but also derogatory in nature. It is thus contended that since the writ petitioner has submitted her application for transfer in accordance with the criteria as set up by different notifications of the School Education Department, Govt. of West Bengal, an appropriate directions may be given to the respondent no.8 authority to forward the application for transfer of the writ petitioner to the appropriate authority in accordance with law after quashing the remarks as mentioned above as made by the respondent no.8.

While opposing the prayer of the present writ petitioner, learned advocate for the respondent no.9 also places his reliance upon the self same notification as pointed out by the learned advocate for the writ petitioner and as mentioned above. Attention of this court is also drawn to the page 63 of the writ petition vis-à-vis page 14 of the affidavit-in-opposition as filed on behalf of the

present respondent no.8. On perusal of the page 14 of the affidavit-in-opposition it reveals that is the minutes of the meeting of the Managing Committee of the school dated 02.07.2022 it has been stated specifically that the previous application of the present writ petitioner was returned to the school by the appropriate authority on account of low score. In the said minutes it has also been recorded by the school authorities that in the present application the appropriate score would not be 22. Accordingly, it was recorded that such score was confusing which is why the same was returned back to her.

In support of such recording of minutes learned advocate for the respondent no.8 also draws attention of this Court to the page 55 of the writ petition which is the Photostat copy of the birth certificate of the son of the present writ petitioner wherefrom it reveals that the son of the present writ petitioner Ritabrata Bhattacharya was born on 06.12.1999. It is contended that since the said son of the present writ petitioner is above 10 years she is not entitled to the marks as calculated by the writ petitioner which is however disputed by the writ petitioner.

On perusal of the entire materials as placed before this Court and after considering the respective submissions of the learned advocates of both the sides, it appears to this Court that the respondent no.8 and

respondent no.9 in their minutes of the meeting dated 2nd July, 2022, has categorically come to a finding to return the application of the present writ petitioner with a rider that in the event the writ petitioner makes an application afresh in clear manner, the same, will be considered afresh.

Such being the position this Court considers that justice will be sub-served if a direction is passed that in the event the writ petitioner in future files a similar application for transfer in accordance with the notifications of the School Education Department, Govt. of West Bengal, the respondent no.8 and respondent no.9 shall consider such application in accordance with law without being influenced by their caustic observation as recorded in the minutes dated 2.7.2022. It is also made clear that in the event the present writ petitioner makes an application for transfer afresh the respondent no.8 and respondent no.9 authority shall have to process the same within the specified time as mentioned in the rules and the relevant notifications.

Ordered accordingly.

With the aforesaid observations the instant writ petition is disposed of.

(Partha Sarathi Sen, J.)