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AGM 2022
RKB
Ct 17

WPA 16315 of 2021

**Debasis Das
Versus
State of West Bengal & Ors**

Mr. Rabiul Islam,
Mr. K. M. Hossain,
Ms. Keya Sutradhar,

... for the petitioner.

Mr. H. Barui,

... for the respondent No. 13.

This is a mutual transfer case. One teacher of the said mutual transfer now submits that he does not want to go to the other school by way of mutual transfer for which order was passed against recommendation of the Commissioner of School Education on 26.02.2021 by the West Bengal Board of Secondary Education. The respondent No. 13 at the last moment saying that he does not want to change the school. In such a situation, this Court cannot compel the respondent No. 13 to change the school by way of mutual transfer. The mutual transfer is an agreement between the parties where the statutory authorities work only as the executing authority under the mutual transfer rules. This agreement between the parties has no such force of law for which one party may be compelled to join the other school. In any event, there cannot be any agreement under the sky, which cannot be breached.

The relief for such beach lies in damages.

Therefore, I do not compel the respondent No. 13 to change the school but as he had given his consent for

mutual transfer for which the petitioner got some hope cost is required to be imposed upon the said respondent No. 13. I impose of a cost of Rs. 20,000/- upon the said respondent, which is to be paid to the petitioner by 07.06.2022.

With the observation and direction, this writ application is disposed of.

However, if the cost is not paid to the petitioner by the date fixed, the petitioner shall have liberty to mention the matter for recalling of this matter so far as the cost is concerned.

The transfer order passed by this West Bengal Board of Secondary Education being Anneuxure P-2 at page 17 dated 26.02.2021 is set aside and quashed.

The petitioner shall have every liberty to apply for mutual transfer or for general transfer.

(Abhijit Gangopadhyay, J.)