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13.05
2022
Ct. No.17

WPA 16870 of 2021

Ivy Sarkar
Vs.
The State of W. B. & Ors.

Mr. Soumya Majumder
Mr. Anupam Das Adhikary
Mr. Victor Chatterjee
.....For the Petitioner
Mr. Indrajit Ghosh
.....For the Respondent Nos. 7, 8, 10
and 11

Pursuant to my direction learned advocate for the School and the President and the Headmaster of the School is present. Another teacher, namely, Mr. Bikash Kumar Sinha being the respondent no.10 is also present as there were allegations against Mr. Sinha for filing transfer applications one after another with ulterior motive and acting hand in glove with the Headmaster so that no teacher could be considered for further recommendation of transfer as the school is under the impression that the applicability of 10% Rule should be considered in the manner where the fraction part would be taken as one if the fraction crosses five. If it is below five, the round figure would remain the same and no teacher's application would be sent as hit by said 10% Rule.

In my view this understanding of the fraction part when 10% Rule is applied to the school is

misunderstood by the school. Though the school has submitted that they are doing it after knowing the view of the District Inspector of Schools, no supporting documents have been produced before me for such interpretation of the fraction. In view of this court as is done in respect of transfer of teachers, any fraction in teacher-percentage would be considered as other teacher. Therefore, in my view the school has followed a wrong principle and the school can still upload the no-objection and the application of the petitioner for sending it to District Inspector of Schools. The school has very gently, which is appreciated by this court, submitted that they have no objection to send the application of the petitioner. Therefore, I direct the school accepting their submission that the application of the petitioner for transfer would be sent to the D. I. by today after forwarding the application by the petitioner herself.

The petitioner has submitted that in the meantime the vacancies in the schools which she had selected are all filled up. Therefore, I grant liberty to the petitioner to select other schools and to indicate those schools in her application.

The President of the school, the Headmaster and other teachers who are personally present before me have made earnest request to this court to request

the Commissioner of School Education for taking steps so that new teachers can be appointed in the school, otherwise the school would be suffering immensely as there are 604 students.

Hence, I request the Commissioner of School Education to call a meeting with the Headmaster and the President of the school and Secretary of the School Service Commission to see how soon teachers can be recommended to that school in the posts which have become vacant due to transfer of the teachers.

The D. I. of Schools is directed to see that the application of the petitioner along with other applications of the teaches of the same school pending before him can be transmitted to the School Service Commission as soon as possible.

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

The Vakalatnama filed today on behalf of the school, the Headmaster and the private respondents is kept on record.

(Abhijit Gangopadhyay, J.)

