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14.02
2022
Ct. No.17

WPA 17181 of 2021

**Secretary, Mahesh Shri Ramkrishna Ashram
Vs.
The State of W. B. & Ors.**

**Mr. Rabi Lal Maitra, Sr. Advocate
Mr. Kanai Lal Samanta
Mr. R. L. Maitra
.....For the Petitioner
Dr. Sutanu Kr. Patra
Ms. Supriya Dubey
.....For the SSC
Mr. Sukanta Chakraborty
.....For the WBBSE
Mr. B. P. Vaisya
Mr. Sagnik Chatterjee
.....For the State**

Affidavit of service filed in court today be kept with the record.

The case of the petitioner/school is that they were given exemption under Section 15A of the School Service Commission Act in the year 2015 but even then on 27.09.2021 and further on 31.09.2021 one Headmaster and another teacher of Physical Education have been recommended by the School Service Commission for transfer to the school.

In view of the exemption given to the school, this cannot be done by the School Service Commission.

Hence, the said two recommendation letters dated 27.09.2021 and 31.09.2021 are quashed and

set aside. The school has the liberty to appoint any teacher of its own including Headmaster and another non-teaching staff. This autonomy granted by an Act of the Legislature cannot be interfered with by another creature of the Act, namely, the School Service Commission.

Hence, I allow this application with a further direction that the two persons who were sent to the school, namely Mahesh Shri Ramkrishna Ashram be transferred to some other appropriate vacancy keeping in mind the convenience of the said two persons.

The transfer of the above two persons to some other schools is to be completed by three months from date, if not already done.

With this observation and direction this writ application is allowed.

(Abhijit Gangopadhyay, J.)

