

g.b.
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29.09.
2022
Ct. No.17

WPA 18126 of 2022

Samrat Singha
Vs.
The State of W. B. & Ors.

Mr. Shuvanil Chakraborty
.....For the Petitioner
Mr. Saikat Banerjee
Mr. Kaushik Chowdhury
....For the Primary Board
Mr. Arindam Chattopadhyay
Mr. Lipika Chatterjee
....For the State
Mr. B. P. Vaisya
Mr. Pinaki Bhattacharyya
....For the DPSC, North 24 Pgs.
Mr. Shamit Sanyal
Ms. Priyakshi Banerjee
....For the Respondent No.5
Md. Sarwar Jahan
Sk. W. Hoque
.....For the Respondent No.4

The petitioner was transferred on mutual basis where a teacher, namely, Miss Aparna Banerjee sought for transfer. Thereafter an order was issued on 8th July, 2022 to the West Bengal Board of Primary Education for such mutual transfer between the petitioner Samrat Singha and the private respondent no.5 Aparna Banerjee. But subsequently Miss Aparna Banerjee on 26.07.2022 intimated the Commissioner of School Education that because of a very shocking situation in her personal life, she does not want the transfer. Therefore, this court cannot pass any order on the humanitarian ground where

the private respondent does not want the transfer. Therefore, the transfer of the petitioner to the school under North 24 Pgs cannot be done in respect of mutual transfer.

I have already expressed my mind in some other matters regarding mutual transfer that any of the parties thereto can withdraw his/her consent for taking a mutual transfer and in that event the other person will suffer but this court cannot do anything in this matter and cannot compel the person who has withdrawn his consent because though there is a statutory authority in between the parties and though the transfer is made following the General Transfer Rules, it is ultimately promise and its performance which are to take place between the parties. If a promise is broken, the remedy lies in seeking for damages and Writ Court does not have any power to compel the other part who is not willing for taking the transfer as this is a matter which is ultimately a purely private contract.

Therefore, I do not find any merit in this writ application.

Learned advocate for the petitioner submits that for the first time he is hearing today that the teacher with whom he exchanged his place of work is not willing to take the transfer and that she has written a letter on 26.07.2022 to the Commission of

School Education Department.

Though the mutual transfer order was issued, this court will not pass any order in this matter in favour of the petitioner. Therefore, the writ application is disposed of with the above observation. The petitioner shall always have the liberty to file another application for mutual transfer in accordance with law.

The letter written by the Private Respondent intimating the Commissioner of School Education that she does not want the transfer which has been produced today is kept on record.

Personal appearance of the Chairman of the District Primary School Council, North 24 Pgs. is dispensed with.

(Abhijit Gangopadhyay, J.)

