

Court No. 24
20.01.2022
(Item No. 33)
(AB)

W.P.A. 20579 of 2021
(via video conference)

Ashraful Islam
VS
The State of West Bengal & Ors.

Mr. Firdous Samim
Ms. Gopa Biswas
..... for the petitioner
Mr. Tapan Kumar Mukherjee
Ms. Debdooti Dutta
..... For the State
Mr. Sarwar Jahan
..... For respondent
Mr. Prosenjit Mukherjee
Ms. Madhurima Sarkar
..... For Madrasah Service Commission

The petitioner, a Teacher of Rausannagar Hossania High Madrasah (respondent No. 8), applied for general transfer and his name has been empanelled by the Madrasah Service Commission for being eligible for counselling.

The grievance of the petitioner is that the Madrasah where he is serving presently is not issuing the “No Objection Certificate” in his favor. In the absence of the “No Objection Certificate” the petitioner will not be allowed to participate in the counselling to be held for general transfer.

The learned advocate representing the Madrasah submits that the petitioner is the only senior teacher for teaching History in the Madrasah. In the event, the petitioner is permitted to leave the Madrasah then the students of the Madrasah will face problem with their studies.

It is an admitted fact that the Madrasah does not have the power to withhold issuance of “No Objection

Certificate” of a Teacher seeking transfer from the said Madrasah. But at the same time, the problem faced by the Madrasah is also required to be addressed so that the students of the Madrasah do not face any problem with their studies.

In view of the above, the instant writ petition is disposed of by directing the Headmaster of the Madrasah to issue necessary “No Objection Certificate” in favour of the petitioner within a fortnight from the date of communication of a copy of this order so that he may participate in the counselling process for general transfer.

The Headmaster will be at liberty to approach the Madrasah Service Commission for appointment of reliever in place and instead of the petitioner so that the students of the Madrasah do not face any problem in their studies.

If any request is made by the Madrasah, the same shall be considered by the West Bengal Madrasah Service Commission at the earliest.

It is made clear that the Headmaster shall not be entitled to take the plea of not issuing the “No Objection Certificate” in the absence of a reliever from the West Bengal Madrasah Service Communication.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

(Amrita Sinha, J.)