

Court No. 22
06.12.2022
(Item No. 110)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 24454 of 2022

Sk. Firoz Ali
VS
The State of West Bengal & Ors.

Mr. Tarun Kanti Ghosh
Mr. Santosh Kumar Chakrabarti
..... for the petitioner
Mr. Prosenjit Mukherjee
Ms. Madhurima Sarkar
.....For Madrasah Service Commission
Mr. Malay Singh
Ms. Neelam Singh
.... For the State
Ms. Sunita Guha
.... For respondent No. 3

Affidavit of service filed in Court today, is taken on record.

The writ petitioner claims to be an **Assistant Teacher** for the subject Geography at **Sultanpur Alia Senior Madrasah, Murshidabad**. The petitioner applied for transfer through online portal, **Annexure P-5** to the writ petition which also bears the signature of relevant concerned Teacher-in-charge of the relevant Madrasah signed on **April 5, 2021**. The petitioner submitted that, the petitioner has not received any information as to fate of his application for transfer.

None appears for the West Bengal Madrasah Service Commission.

Mr. Prosenjit Mukherjee, learned advocate who normally appears for the West Bengal Madrasah

Service Commission in this type of matters is present in Court, he is requested to appear in this matter and hold the brief and to assist the Court. His appearance along with Ms. Madhurima Sarkar, learned advocate as his junior is directed to be regularized forthwith.

Considering the issues involved in this writ petition and upon perusal of the materials on record, to sub-serve justice, the respondent No. 5 is directed to consider the application of the petitioner for transfer, **Annexure P-5**, if not considered earlier. In the event, it was already considered earlier then the petitioner should be communicated the reasoned decision of the respondent No. 5. In the event, the same was not considered then the respondent No. 5 shall give a seven days prior hearing notice to the petitioner and the respondent No. 8 and after giving them an opportunity of hearing shall decide the issue and pass a reasoned order/decision thereupon.

The entire exercise as directed above, shall be carried out and completed by the respondent No. 5 positively within a period of six weeks from the date of communication of this order. The respondent No. 5 then shall communicate its reasoned decision/order to the petitioner and the respondent No. 8 within a further period of two weeks from the date of the said reasoned order to be passed.

In the event, the reasoned order goes in favour of the petitioner, the respondent No. 5 shall take all necessary and consequential steps in the matter to give effect to its decision strictly in accordance with law within a further period of four weeks from the date of communication of the said reasoned order to the petitioner.

It is made clear that, this Court has not gone into the merit of the claim of the writ petitioner in any manner whatsoever. The petitioner will be at liberty to urge whatever points he wishes to urge before the respondent No. 5 and will be at liberty to rely upon whatever records and documents he wishes to rely upon before the respondent No. 5. The respondent No. 8 shall co-operate with the respondent No. 5 in every respect and if necessary shall produce all the relevant documents before respondent No. 5.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

It is further made clear that, this order shall not create any equity in favour of the petitioner, in the event, the petitioner is not eligible to his claim for transfer strictly in accordance with law.

On the above terms, this writ petition being **WPA 24454 of 2022** stands disposed of.

There shall, however, be no order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)