

31.08.2022  
09-10  
RP Ct.25

WPA 5101 of 2021

Sujan Roy  
Vs.  
State of West Bengal & Ors.  
With  
WPA 11626 of 2020  
Prasanta Sutradhar  
Vs.  
The State of West Bengal & Ors.

Mr. Subrata Mukhopadhyay  
Mr. Subhajit Das  
... For petitioner in WPA 11626/2020  
& For respondent no.8 in WPA 5101/2021  
Mr. Avishek Prasad  
Ms. Ankita Dey  
... For petitioner in WPA 5101/2021  
Mr. Biswabrata Basu Mullick  
Mr. Sanjib Das  
... For State  
Ms. Koyeli Bhattacharyya  
... For WBBSE

The petitioner in WPA 5101 of 2021 is an assistant teacher of Burduary High School, a government aided recognized high school. The respondent no.8 in WPA 5101 of 2021 is serving as an assistant teacher at Sobra SG High School (HS) at Balurghat Dakshin Dinajpur. The petitioner and the private respondent no.8 both applied for mutual transfer selecting the other party as their partner. The President of the West Bengal Secondary Education passed an order on December 7, 2020 directing the concerned school to release the

petitioner and the private respondent so that they can join their respective assigned post.

Prior to filing of this writ petition the private respondent in WPA 5101 of 2021 filed a writ petition, being WPA 11626 of 2020, praying for issuance of a writ of mandamus to set aside, cancel and quash the order of mutual transfer dated 7<sup>th</sup> December, 2020 and the recommendation for transfer vide memo dated November 25, 2020 issued by the Commissioner of School Education of West Bengal.

Since both the writ petitions involve the issue as to mutual transfer of the private parties to the respective schools by virtue of the common order of transfer both are heard analogously.

Mr. Mukhopadhyay, learned advocate representing the petitioner in WPA 11626 of 2020 submits that due to subsequent events which cropped up after the said petitioner agreed to the mutual transfer, it is not possible for the petitioner in WPA 11626 of 2020 to join at Barduary High School in the district of Malda. He submits that in view thereof the order of transfer and the recommendation should be set aside and the petitioner be allowed to function as an Assistant Teacher of Sobra SG High School (HS).

He further submits that the writ petition, being WPA 5101 of 2021, is an afterthought as the same

was filed more than three months after WPA 11626 of 2020 was filed.

Mr. Prasad, learned advocate representing the petitioner in WPA 5101 of 2021 submits that since the petitioners in both the writ petitions agreed to mutual transfer to their respective school and the recommendation in connection thereof was made and order of transfer was also passed, the petitioner in WPA 5101 of 2021 may be allowed to join as an Assistant Teacher at Sobra SC High School.

Heard Mr. Mukhopadhyay, learned advocate for the petitioner in WPA 11626 of 2020, Mr. Prasad, learned advocate for the petitioner in WPA 5101 of 2021, Mr. Basu Mullick, learned advocate representing the State in both the writ petitions and Ms. Bhattacharyya, learned advocate representing the Board in both the writ petitions.

It appears from the record of WPA 11626 of 2020 that the petitioner therein has submitted a representation dated December 9, 2020 before the Commissioner of School Education praying for withdrawal of the recommendation and the order for mutual transfer. On the other hand, it appears from the record of WPA 5101 of 2021 that the petitioner therein has made a representation to the Commissioner of School Education on December 11,

2020 prayer for an order to allow the petitioner therein to join Sobra SG High School (H.S).

After hearing the learned advocates for the parties and considering the material on record, this Court is of the considered view that the interest of justice would be subserved if the Commissioner of School Education is directed to take a decision on the representation of the petitioner in WPA 5101 of 2021 dated December 11, 2020 and the representation of the petitioner in WPA 11626 of 2020 dated December 9, 2020 by passing a reasoned order within a specific time frame.

Accordingly, WPA 5101 of 2021 and WPA 11626 of 2020 are disposed of by directing the Commissioner of School Education, Government of West Bengal, being the respondent no.2, to consider the aforesaid representations dated December 11, 2020 and December 9, 2020 and to dispose of the same by passing a reasoned order after giving an opportunity of hearing to the respective petitioners or their authorized representatives and any other interested parties that the Commissioner of School Education may feel necessary in deciding the aforesaid issue and to communicate the reasoned order to the parties. The writ petitioner in both the writ petitions will be at liberty to raise all points in support of their respective contentions either verbally

or in writing at the time of hearing before the respondent no.2. The entire exercise shall be completed within a period of eight weeks from the date of communication of this order.

Urgent Photostat certified copy of this order, if applied for, be delivered to the learned advocates for the parties, upon compliance of all formalities.

**(Hiranmay Bhattacharyya, J.)**