

04.01.2022
Srimanta
Ct. No. – 02
Sl. No. 08

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction
(Via Video Conference)**

W.P.A. 1287 of 2021

**Bijan Kumar Sikdar & Ors.
-versus
The State of West Bengal & Ors.**

Mr. Sakti Pada Jana, Adv.,
Mr. Debjit Kundu, Adv.,
Mr. Abhisek Addhya, Adv.

...For the Petitioners.

Mr. Bikramaditya Ghosh, Adv.,
Mr. Momenur Rahman, Adv.

...For the State.

The petitioners are the assistant teachers of different school in different districts within the jurisdiction of the Circuit Bench of Jalpaiguri. They made applications for their transfer to any of the schools near to their respective residences.

It is pertinent to mention here that the School Education Department, Government of West Bengal issued Memo dated 16th October, 2020 stating, *inter alia*, that the State Government is hereby pleased to direct that henceforth, all the aspirants seeking transfer of any kind from one school to another school, shall apply to the Commissioner, School Education in the manner as may be notified by the State Government and the authority concerned, on

considering the each application on merit, may recommend to the West Bengal Board of Secondary Education for issuance of formal order of transfer in appropriate cases, till the situation improves or until further order, whichever is earlier.

In terms of the above-mentioned Memo the Government prepared a list of 166 + 19, total being 185 teaching and non-teaching staff who applied for their transfer for necessary action by the Commissioner, School Education Department. In the said list the names of the petitioners duly appeared. Some of the teachers and non-teaching staff were transferred on recommendation by the Commissioner. But the petitioners were not transferred. They subsequently made representations to the Commissioner of School Education but the Commissioner failed and neglected to take any action upon their representations.

It is also submitted by the learned advocate for the petitioners that subsequently by notice dated 26th August, 2021 an online portal under the name and style of 'Utsashree' was launched by the School Education Department and the teachers and non-teaching staff under School Education Department are directed to upload their prayer for transfer in the portal for consideration.

It is further submitted by the learned advocate for the petitioners that when the case of the petitioners' for transfer was considered in terms of Memo dated 16th October, 2020 and a list of intending transferees was prepared by the School Education Department under the signature of the Minister-in-Charge of the said Department, the petitioners are entitled to be transferred as per their prayer and they do not require to make similar prayer in 'Utsashree' portal.

Learned advocate for the State, on the other hand, submits that 'Utsashree' portal was launched to implement for transparent and error free online process for transfer in respect of eligible teaching and non-teaching staff engaged in different Government aided and Government sponsored schools under the control of the Department of School Education. It is also submitted by him that the list which was prepared by the Commissioner of School Education refers to eligibility of the petitioners for being transferred from their present place of posting to a school nearest to their house. This list does not create any right of the petitioners for being transferred from one place to another. Their prayers are to be considered through 'Utsashree' portal.

In view of the rival contentions made by the learned advocate for the petitioners and the learned advocate for the State, this Court is of the view that concessionable justice would be made if the concerned authority is directed to consider the representations made by the petitioners before the Commissioner of School Education, the copies of which are lying in page 86 to page 98 of the writ petition (Annexure – P/5 and Annexure – P/6 collectively).

The Commissioner of School Education (respondent no. 3) shall consider the representations submitted by the petitioners within two months from the date of communication of this order.

It is open for the Commissioner to pass a reasoned and speaking order regarding the claim of the petitioners for being transferred from one school to another on the basis of G.O. dated 16th October, 2020 and the letter issued by the Deputy Secretary to the Government of West Bengal to the Commissioner, School Education dated 10th November, 2020 or they will have to pursue their prayers through 'Utsashree' or not. Entire action shall be completed within three months from the date of communication of this order.

The instant writ petition is, thus, **disposed of** on contest, however, without cost.

(Bibek Chaudhuri, J.)