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07.03.2022
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**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

**W.P.A 2516 of 2021
(Via Video Conference)**

**Priyanka Pakrashi
-versus
State of West Bengal & Ors.**

**Mr. Saktipada Jana,
Mr. Debajit Kundu.
...For the Petitioner.**

**Mr. Subir Kumar Saha,
Mr. Momenur Rahman.
...For the State.**

The petitioner applied for transfer in the 'Utsashree' portal maintained by the State on 19th August, 2021 after obtaining the requisite 'No Objection Certificate' from the School Managing Committee. The prayer of the petitioner was turned down on 2nd September, 2021 on the ground that there is a single teacher in the concerned subject.

Admittedly, there was no rule prevailing on 2nd September, 2021 for rejection of prayer for transfer on the ground of being single teacher of a subject.

The Commissioner of School Education published a memo on 22nd September, 2021 mentioning that in the event a single subject teacher makes application for transfer, the School Managing Committee will not reject the application and will inform the DI (SE) about such application. The District Inspector (SE) is immediately to discuss the matter with the Commissioner of School

Education. In fit cases, the DI (SE) will take urgent steps, in time bound manner, to search for a teacher in the same subject from the nearby schools and make local arrangements so that the teacher of the other school attends the school wherefrom the teacher concerned has applied for transfer.

The said arrangement shall be communicated by the DI to the school concerned and the Head of the Institution will forward the application of the teacher to the DI (SE) who will forward the case to the West Bengal School Service Commission for consideration and the Board will issue the transfer order accordingly.

The aforesaid memo does not imply that the same has any retrospective effect.

The petitioner relies upon an order passed by a Coordinate Bench of this Court on 16th November, 2021 in **WPA 14189 of 2021** in case of **Tapas Kumar Gain vs. The State of West Bengal & Ors.** wherein the Court was of the opinion that the application of the petitioner for transfer is to be decided in accordance with the subsisting procedure before the circular relating to single teacher dated 22nd September, 2021 was issued.

In the present case also, admittedly, on the day the application was filed by the petitioner, there was no restriction for transfer of single teacher of subject, accordingly, the school issued the 'No Objection Certificate' in favour of the petitioner. At present the aforesaid circular cannot be relied upon for the purpose of rejecting the prayer of the petitioner for transfer.

The instant writ petition is disposed of by directing the District Inspector of Schools (SE), Siliguri to once again forward the application of the petitioner to the Commissioner of School Education and thereafter follow up the matter with the West Bengal School Service Commission.

The Commissioner shall take necessary steps in the matter in accordance with the rule that was prevailing on the date the application for transfer was made by the petitioner. Steps shall be taken at the earliest, but positively within a period of four weeks from the date of communication of a copy of this order.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)