

13.04.2023
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AN/Ct. No.07

WPA 307 of 2020

**Suman Karmakar
versus
State of West Bengal & ors.**

Mr. Samim Ahmed
Mr. Arka Maiti
Ms. Ambiya Khatun

... for the petitioner

Mr. Bhaskar Prasad Vaisya
Mr. Pinaki Bhattacharya

... for the D.P.S.C., N. 24 Pgns.

Mr. Supriyo Chattopadhyay
Ms. Iti Dutta

... for the State

The petitioner has challenged the order dated 23.10.2019 by virtue of which the petitioner who was performing his duties as Assistant teacher at Vivekananda Vidyamandir, Barasat was transferred to the primary section of Barasat P.C.S. Government High School.

Learned counsel for the petitioner submits that the Commissioner of School Education is not authorized to direct transfer of a teacher from a school which is under the control of the District Primary School Council, North 24 Parganas to the Barasat P.C.S. Government High School.

Learned counsel representing the State does not dispute such submission of the petitioner. He contends that the Commissioner of School Education requested the Chairman of the concerned District Primary School

Council, North 24 Parganas to depute the willing teachers to be transferred to the Barasat P.C.S. Government High School.

Learned counsel representing the D.P.S.C., North 24 Parganas submits that in the writ petition, the writ petitioner has admitted that he has joined the Barasat P.C.S. Government High School and having joined there, the petitioner cannot thereafter challenge the transfer order.

It is not in dispute that only the teachers who are willing can only be transferred from one school to another. It appears from the materials on record that though the petitioner has joined the Barasat P.C.S. Government High School on deputation but the petitioner has submitted an application to the Chairman of the District Primary School Council, North 24 Parganas through the concerned Sub-Inspector of Schools, Barasat Circle praying for cancellation of the transfer order. It further appears from the endorsement made by the concerned Sub-Inspector of Schools, Barasat Circle that the petitioner was transferred without his consent and knowledge. Since the transfer could have been made only upon a teacher expressing his willingness to join the School where he is sought to be transferred, this Court is of the view that the petitioner being not willing to serve the school where he was transferred, cannot be compelled to perform his duties as

Assistant Teacher of Barasat P.C.S. Government High School.

In view thereof, the order of transfer dated 23.10.2019 in so far as the petitioner whose name is appearing under Serial no. 7 of the said transfer order is set aside. The petitioner shall be allowed to join Vivekananda Vidyamandir, Barasat and perform his duties as an Assistant Teacher of the said school as expeditiously as possible but positively within a period of two weeks from the date of communication of this order.

In view of the aforementioned submissions made by learned counsel for the respective parties, this Court has not gone into the issue of jurisdiction of the authority directing transfer of a teacher from one school to another and such issue is left open to be decided in a future litigation.

With the above observations and directions, the instant writ petition stands **disposed of** without, however, any order as to costs.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Hiranmay Bhattacharyya, J.)