

W.P.A. 9347 of 2023

**Nabanita Mukherjee
Vs.
The State of West Bengal & Ors.**

Mr. Ujjal Roy
...for the petitioner

Mr. Sunit Kr. Roy
...for the SSC

Ms. Koyeli Bhattacharyya
...for the WBBSE

Mr. Debnarayan Banerjee
Md. Ahsanuzzaman
...for the State

Affidavit of Service filed on behalf of the petitioner
is taken on record.

The writ petition is presented, *inter alia*, praying for
transfer on re-recommendation to be made by the
concerned authority of West Bengal Central School
Service Commission.

Mr. Ujjal Roy, learned advocate representing the
petitioner submits that on processing the application for
transfer Secretary, West Bengal Central School Service
Commission (hereinafter referred to as 'the Commission')
issued a recommendation letter for transfer of the
petitioner dated 20th September, 2022 from Makardah
Bamasundari Institution, District-Howrah to Khalsa
Girls High School, District-Kolkata. Effort was made by
the petitioner to join the post at Khalsa Girls' High
School pursuant to the recommendation dated 20th

September, 2022, but it was found by the petitioner that school is not fully Government aided. Thereafter the petitioner approached the concerned respondent authorities including the Commission for recommending her name for transfer to some other schools which is nearby to place of residence of the petitioner. It has been submitted that till date no effective steps have been taken by the respondent authorities in order to alleviate the grievance of the petitioner.

Mr. Sunit Kr. Roy, learned advocate representing the Commission submits that Khalsa Girls' High School where the petitioner has been recommended though is a Government aided school but teacher-pupil ratio does not permit joining of the petitioner as an assistant teacher in the said school. On behalf of the Commission, contention of the petitioner that the Khalsa Girls' High School is a private school, is disputed. However, it has been fairly submitted on behalf of the Commission that if any direction is passed upon the Secretary of the Commission, necessary steps shall be taken upon consideration of the case of the petitioner for re-recommendation.

West Bengal Board of Secondary Education is represented by Ms. Koyeli Bhattacharyya, learned advocate who submits that in the matter of transfer only role which is required to be played by the Board is to

issue transfer order based on the recommendation to be made by the Commission.

State-respondent is also represented by learned advocate who submits that in view of suspension of 'Utsashree Portal' and for continuation of the selection process, there is difficulty in re-recommending the name of the petitioner for appointment on transfer.

Having considered the submissions made on behalf of the parties to this writ petition this Court finds that on processing the application of the petitioner the Commission being the appropriate authority adjudged the petitioner as an eligible candidate to be recommended for transfer. Accordingly, recommendation for transfer was made vide memo dated 20th September, 2022 which is at page 21 of the writ petition. Pursuant to the said recommendation memo dated 20th September, 2022 petitioner tried to join but could not since the status of the school as private one and not being a fully aided prevented the petitioner from joining. Today, whether the said school is fully aided or not or it is the teacher-pupil ratio which creates an obstacle so far the petitioner is concerned in joining the post on transfer, is not material. The issue which needs to be considered by this Court is that the Commission has found the petitioner being eligible to be transferred on recommendation and recommendation letter has been issued but in view of recommending the petitioner to a

school where petitioner could not join not for the fault attributable to the petitioner it is the duty of the Commission to re-recommend the name of the petitioner to some other school in the same district where the Khalsa Girls' High School situates.

Accordingly, the District Inspector of Schools (SE), Kolkata being the respondent no. 7 is directed to forward a suitable vacancy to the Commission within a fortnight from the date of communication of this order. On receipt of such vacancy Secretary, School Service Commission shall issue recommendation letter for transfer of the petitioner within a fortnight thereafter and the Board in its turn shall issue order of transfer within a period of seven days thereafter. Petitioner shall join the post in terms of the transfer order to be passed by the Board.

With the aforesaid directions, the writ petition stands disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)