

Court No. 22
30.01.2023
(Item No. 05)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
W.P.A. 10247 of 2022

Sharmistha Saha
VS
The State of West Bengal & Ors

Mr. Md. Yusuf Ali
..... for the petitioner
Mr. Bhaskar Prasad Vaisya
Mr. Ranjan Saha
.... For State
Mr. Sourav Mitra
Mr. Suman Dey
.... For respondent Nos. 5 & 6

The petitioner is an **Assistant Teacher** for the subject **English** and at present working as **Teacher-in-charge** at **Baishnabnagar Vidyasagar Balika Vidyalaya (H.S.), Malda**. The petitioner claimed transfer by applying through **Utsashree** portal on **August 12, 2021** as would be evident from **page 50 (serial No. 13)** to the writ petition. The State authority had rejected the case of the petitioner for **General Transfer** on the ground that **“No Vacancy”** as would be evident from **serial No. 1** at **page 49** to the writ petition.

Mr. Md. Yusuf Ali, learned advocate drawing attention to **Annexure P-9** at **page 52** to the writ petition submitted that, for the subject **English** as on **May 6, 2022** there was one vacancy available at the chosen school of the petitioner i.e. **Malda Town School, Malda**.

Mr. Bhaskar Prasad Vaisya, learned Additional Government Pleader appearing for respondent Nos. 1 to 4 referring to the State notification dated **September 29, 2022** and **December 29, 2022** submitted that, the **Utsashree** portal was temporarily suspended by the State authority with an immediate effect on and from **September 29, 2022** which was extended subsequently till **June 30, 2023**. He submitted that, the entire operation of the online processing for application for transfer through **Utsashree** portal stood suspended and still remains as such. On this plea, he submitted that, no further step can be taken for processing the transfer application of the petitioner in view of such suspension of the **Utsashree** portal.

Mr. Sourav Mitra, learned counsel appearing for respondent Nos. 5 and 6 adopted the submission of Mr. Vaisya.

After considering the rival contentions of the parties and on perusal of the materials on record, it appears to this Court from a harmonious and plain reading of the said two notifications dated **September 29, 2022** read with **December 29, 2022** under which the **Utsashree** portal was temporarily suspended that, the said suspension would operate **only with effect from September 29, 2022 and not prior thereto**. Consequently the processing of transfer application would also remain suspended those who had applied

on or after September 29, 2022 and not prior thereto. None of these notifications for suspension of **Utsashree** portal whispered anything as to the suspension of the pending transfer applications which were submitted prior to September 29, 2022 being the first notification for suspension of **Utsashree** portal.

In the instant case, admittedly the petitioner's application for transfer was submitted through **Utsashree** portal on **August 12, 2021** as would be evident from **serial No. 13** at **page 50** to the writ petition which was prior to the said notification dated **September 29, 2022**. Hence, this Court is of the firm view that, **this notification for suspension** in no manner shall apply in the facts of the instant case. **There shall be no bar for processing the transfer application of the petitioner in the facts and circumstance of the instant case in view of the said suspension notifications, if the petitioner is otherwise eligible in accordance with law.**

To sub-serve justice, the respondent No. 4 shall re-visit the case of the petitioner in the light of the vacancy position as indicated in **Annexure P-9** at **page 52** to the writ petition dated **May 6, 2022** in the light of the decision of the State authority dated **April 21, 2022** as would be evident from **page 49, Annexure P-8** to the writ petition (**serial No. 1**) strictly in accordance with law and shall inform the

petitioner and the respondent No. 6 forthwith but positively within a period of **four weeks** from the date of communication of this order.

In the event, the respondent No. 4 is of the opinion that, the petitioner shall be eligible to receive her claim for transfer, then the respondent No. 4 and respondent No. 6 shall take all further and consequential steps within a further period of two weeks from the date of the said decision of the respondent No. 4.

On the above terms, this writ petition being **WPA 10247 of 2022** stands disposed of.

There shall, however, be no order as to costs.

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

(Aniruddha Roy, J.)