

04.04.2023

MAT 989 of 2022
With
CAN 1 of 2022

The Headmistress, Udaypur Balika Bidyaniketan & Anr.
-Vs-
Kakali Basak & Ors.

Mr. Anjan Bhattacharyya

... for the Appellants

Mr. Sakti Pada Jana
Mr. Subhajyoti Das

... for the Writ petitioner/ Respondent

Mr. Supriyo Chattopadhyay
Ms. Iti Dutta

... for the State

Party/Parties is/are represented in the order of their name/names as printed above in the cause title.

The appellant submits that the order of the Hon'ble Single Bench directing the District Inspector of School (Secondary Education), Uttar Dinajpur [for short, D.I. (S.E.)] to consider the application for transfer of the writ petitioner/the respondent no.1 to this appeal, cannot be forwarded by the appellant in her capacity as the Headmistress of the School-in-issue on the ground that the case of the appellant fails to meet the eligibility conditions mandated by the Rules for transfer.

Mr. Bhattacharya, Learned Counsel appearing for the appellant, submits that the Rules for transfer, namely Rule 5(6) of the Notification dated 27th February, 2015 restrains the School from forwarding any application for transfer

received from more than 10% of the total number of teachers of that School. The Rule also mandates that priority shall be given to the teachers senior in age.

It is further submitted that on the basis of the said Rules and having regard to the Staff pattern of the School as well as the presence of teachers who are senior to the writ petitioner/the respondent no.1, her application for transfer could not be forwarded. An additional reason is cited by the appellant to the effect that the Managing Committee of the School could not assemble for a meeting due to lack of quorum. Hence, without a meeting of the Managing Committee no decision could be taken for recommending the transfer of the writ petitioner/the respondent no.1.

Per contra, Mr. Jana, Learned Counsel appearing for the writ petitioner/the respondent no.1, relies on an Affidavit to show that the Staff pattern of the School has, at present, reached 16.

It is further submitted that the transfer in issue specified by the transfer rules as mandated by the Notification dated 27th February, 2015 stood further amended by a Notification dated 8th September, 2021 and further again by a Notification dated 3rd January, 2022.

In the light of the above rules, as amended, it is submitted that the School has to forward the application for transfer of the writ petitioner/the respondent no.1 based on availability of 10% Staff strength and it is the District Inspector of School (S.E.), who is the competent authority to

take an appropriate decision.

Having heard the parties and considering the materials placed, this Court, at this stage, finds from the present position of facts and the law, no reason to intervene with the order of the Hon'ble Single Bench directing that the application for transfer of the writ petitioner/respondent no.1 be forwarded by the appellant to the concerned D.I. of Schools (S.E.).

MAT 989 of 2022 along with **CAN 1 of 2022** stands thus **dismissed**.

Affidavits filed by the parties be retained with the record.

All parties to act on a server copy of this order duly obtained from the official website of the Hon'ble High Court, Calcutta.

(Supratim Bhattacharya, J.)

(Subrata Talukdar, J.)