

Court No. 8

MAT 1014 of 2022

12.09.2023

(AD 50)

(S. Banerjee)

Chandan Dey

Vs.

The State of West Bengal & Ors.

with

CAN 1 of 2022

Mr. Shuvro Prokash Lahiri

Ms. Tithi Mazumder

Mr. Rajesh Naskar

... for the appellant

Mr. B. P. Vaisya

Mr. Mrinal Kanti Ghosh

... for the State

Mr. Sourav Mitra

... for the School Service Commission

The transfer of the petitioner on the ground of single teacher was the subject-matter of challenge in the writ petition.

Learned Single Judge in disposing of the writ application has observed that the petitioner may apply afresh through the Utsashree portal in terms of the amended circular of the State dated 3rd January, 2022. This has been challenged in this appeal.

It is submitted that the application for transfer of the petitioner is required to be considered under the unamended provision or the norms prevailing at the time of his application for transfer and not on the basis of any subsequent circular. This point we have considered in MAT 205 of 2023 (Prapti Chakraborty –

Vs.- State of West Bengal & Ors.) decided on 10th August, 2023.

Since identical issues are involved in this appeal, we allow this appeal by directing the Commissioner of School Education to consider the application for transfer of the petitioner on verification of the records and production of relevant documents to be produced by the school authorities. It is needless to mention that the application for transfer shall be considered on the basis of the norms prevailing at the point of time when the application for transfer was made and is required to be decided on the basis of such norms and not on the basis of any subsequent norms. The interest of the students will also be a relevant consideration. The petitioner shall file an offline application within one week from date to the Commissioner of School Education who shall consider the said application and dispose of the same within three weeks thereafter. We make it clear that the petitioner has prayed for general transfer on the ground of distance.

With the aforesaid direction, the appeal stands disposed of. Impugned order is modified to the above extent.

(Soumen Sen, J.)

(Siddhartha Roy Chowdhury, J.)