

Court No.22
27.02.2023

(Item No. 760)

(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 21390 of 2022

Sonali Biswas
VS
The State of West Bengal & Ors.

Mr. Tanmoy Chattopadhyay
.... For the petitioner
Mr. Sakti Pada Jana
Mr. Subhajyoti Das
.... For respondent Nos. 5 & 6

Mr. Tanmoy Chattopadhyay, learned advocate appearing for the petitioner submitted that, the petitioner claimed to be an **Assistant Teacher** presently working at **Dharmada K.K. High School (H.S.), District – Nadia**. She opted for transfer. She is an **Assistant Teacher** for the subject **Sanskrit**. Previously the case of the petitioner was considered by the respondent No. 4 which was rejected on **September 8, 2021** and was forwarded to the petitioner as would be evident from **Annexure P- 9** at **page 53** to the writ petition. The petitioner challenged the said rejection.

Mr. Sakti Pada Jana, learned advocate appeared for respondent Nos. 5 and 6.

None appears for the State, nor any accommodation has been sought for.

After considering the submissions made on behalf of the appearing parties and on perusal of the materials on records and upon taking note of the last

notification issued by the **Principal Secretary, School Education Department** bearing No. **216/SE/S/10M-09/2023 dated February 10, 2023**, to sub-serve justice, the respondent No. 4 is directed to consider the representation of the petitioner dated **September 22, 2021** at **page 64** to the writ petition in the light of the said **latest notification on Transfer Policy** dated **February 10, 2023** as referred to above upon giving at least seven days prior hearing notice to the petitioner and the relevant school authority and after giving them an opportunity of hearing shall decide the issue raised by the petitioner for seeking transfer by passing a reasoned order in accordance with law.

The entire exercise as directed above, shall be carried out and completed by the respondent No. 4 positively within a period of six weeks from the date of communication of this order. The respondent No. 4 then shall communicate his reasoned order to the petitioner and the relevant school authority positively within a further period of two weeks from the date of the said reasoned order to be passed.

It is made clear that, this Court has not gone into the merit of the claim of the petitioner seeking transfer. The petitioner and the relevant school authority shall be at liberty to urge whatever points they wish to urge relying upon whatever documents and records they wish to rely upon but the guiding

factor should be said latest notification dated **February 10, 2023** as directed above.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

It is further made clear that, this order shall not create any equity or right in favour of the petitioner if the petitioner is not otherwise eligible to receive her claim strictly in accordance with law.

In the event, the reasoned decision goes in favour of the petitioner, then the respondent No. 4 shall communicate his reasoned decision to the respondent No. 3 positively within a further period of one week from the date of communication of the said reasoned order to the petitioner and the respondent No. 3 then shall take all further and consequential steps to give effect to the said reasoned order positively within a period of four weeks from the date of received of the said reasoned order to be passed by the respondent No. 4.

While deciding the issue the respondent No. 4 shall apply its independent mind in the light of the said **new notification dated February 10, 2023** and shall not be abide by its earlier order of rejection and shall treat the same as abandoned.

On the above terms, this writ petition being **WPA 21390 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.)