

Item-33. 12-10-2023

MAT 1825 of 2023
CAN 1 of 2023

sg Ct. 8

Emtiaj Khan
Versus
The State of West Bengal & Ors.

Mr. Sekhar Pal, Adv.
Mr. Mobakshar Islam, Adv. ...for the appellant
Dr. Sutanu Kr. Patra, Adv.
Ms. Supriya Dubey, Adv. ...for the WBCSSC
Ms. Koyeli Bhattacharyya, Adv. ...for the WBBSE

1. The affidavit of service filed in Court today is taken on record.
2. The appellant canvassed that due to a road accident, he became unfit and unable to travel 150 kilometers from his resident to the school in question. Under such circumstances, he prayed for transfer on the special ground. He has also made a representation that, the distance factor along with his need in the family shall also be taken into consideration in deciding his application for transfer. He has relied upon the certificate of the Headmaster dated 16th January, 2022 in which the Headmaster has recommended that the school has no objection in the event the petitioner is transferred.
3. The learned Single Judge disbelieved that the petitioner is physically unfit to perform his duties in the present school.
4. The issue was not with regard to failure to perform his duty in the present school. In fact, a prayer for transfer is made on the grounds mentioned above. The learned Single Judge seems to have overlooked the said ground and the recommendation of the school in this regard.

5. Under such circumstances, we direct the CMOH of North 24 Parganas to physically examine the writ petitioner on a date and time specified by the CMOH and forward a report to the Commissioner of School Education Department in this regard.
6. The Commissioner of School Education Department is directed to consider the prayer for general transfer on special ground as per Rules as it was existing on the date of such application.
7. The school authorities are directed to forward all relevant documents concerning his prayer for transfer to the Commissioner of School Education in order to enable the Commissioner of the School Education Department to take an informed decision.
8. The final decision shall be communicated to the school and the writ petitioner within one week from the date of taking the final decision.
9. The entire process shall be completed on or before 31st December, 2023.
10. The impugned order is set aside. The appeal and the connected application are accordingly, disposed of.
11. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Uday Kumar, J.)

(Soumen Sen, J.)