

Court No. 22
19.01.2023
(Item No. 79)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 23575 of 2022

Sudipta Das
VS
The State of West Bengal & Ors.

Mr. Pankaj Halder
Mr. Subhrangshu Maiti
..... for the petitioner
Mr. Avishek Prasad
.... For the State
Mr. Prosenjit Mukherjee
Ms. Madhurima Sarkar
Mr. Nadeem Sulaiman
.... For Madrasah Service Commission

The petitioner claimed to be an **Assistant Teacher** for the subject **Computer Science** at **Belpukur High Madrasah (H.S.), District – Dakshin Dinajpur**. The petitioner claimed that, there is no single student available for the stream where the petitioner is engaged as the Assistant Teacher for the said subject. The petitioner claimed that, he sought for a transfer in terms of the General Transfer notification published by the respondent No. 2 on February 5, 2021. The petitioner applied on **February 13, 2021** seeking transfer **only** at **Bogdhara Siddikiya High Madrasah (H.S.), Bankura**. The process was online e-counselling General Transfer process as would be evident from **page 23** to the writ petition.

Mr. Pankaj Halder, learned advocate appearing for the petitioner relying upon a document being

Annexure P-5 at **page 24** to the writ petition which is a document of another individual Madrasah dated **February 3, 2022** submitted that, there was a vacancy for the same subject at the Madrasah known as **Chhapna High Madrasah (H.S.), North 24 Parganas**, however, such vacancy did not feature in the notification issued by respondent No. 2 inviting application for General Transfer. Had this been featured in the said 2021 notification the petitioner could also opt for the same.

Learned counsel further submitted that, since no student is available at the present Madrasah, respondent No. 6, where the petitioner is posted, the petitioner suffers from severe dissatisfaction as a Teacher who cannot impart education to a student. Pursuant to the direction made by this Court on December 6, 2022, an affidavit report was affirmed on December 13, 2022 was filed before this Court on behalf of respondent No. 2.

Mr. Prosenjit Mukherjee, learned counsel appearing for respondent No. 2 relying upon the said report submitted that, only Madrasah, namely, **Bogdhara Siddikiya High Madrasah (H.S.), Bankura** as referred to above for which, the petitioner opted, during the counseling process the candidate who was selected for the same was a higher rank holder than the petitioner in the selection process for transfer. The candidate, namely, **Krishna**

Kanta Mula with **rank of 18** was selected for the said **Bogdhara Siddikiya High Madrasah (H.S.)** whereas the petitioner had secured the **rank 23**. Naturally, the petitioner could not be selected in the e-counselling process for General Transfer for the said **Bogdhara Siddikiya High Madrasah (H.S.)**. Relying upon **Annexure R-4** to the said affidavit report Mr. Mukherjee submitted that, whatever vacancy for the subject was available and was reported till the date of 2021 notification under which the petitioner applied for, the same was made available in the 2021 notification. Drawing attention to **page 24** to the writ petition he submitted that, the alleged document of **Chhapna High Madrasah** was dated February 3, 2022 which was subsequent to the 2021 notification and as such the question of including the said alleged vacancy, even if, there was any at the said **Chhapna High Madrasah** in the said 2021 notification did not and could not arise. He further submitted that, the petitioner since had opted for **only Bogdhara Siddikiya High Madrasah (H.S.)**, though he had option for opting other available vacancies also, he did not chose the same and in view of the candidate who secured a higher rank as stated above having been placed at the said **Bogdhara Siddikiya High Madrasah (H.S.)** the petitioner's application for General Transfer at this stage cannot be considered in any manner.

After considering the rival contentions of the parties and on perusal of materials on record, it appears to this Court that, the petitioner undoubtedly applied under 2021 notification and chose for **one single Madrasah** i.e. **Bogdhara Siddikiya High Madrasah (H.S.)**. The higher rank holder had secured the transfer at **Bogdhara Siddikiya High Madrasah (H.S.)** during the **e-counselling Process** for the relevant General Transfer process. There was neither any wrong nor any infirmity in it.

In as much as, the petitioner filed this writ petition in 2022 only after obtaining the said document dated **February 3, 2022** at **page 24** to the writ petition and till then the petitioner was watching the game sitting on the fence since 2021.

For the reasons and discussions stated above, this Court is of the firm view that, this writ petition is wholly vexatious, frivolous and devoid of any merit.

Resultantly, this writ petition being **W.P.A. 23575 of 2022** stands dismissed.

However, it is made clear that dismissal of this writ petition shall not preclude the petitioner to apply further seeking transfer strictly in accordance with law, as and when the State authority shall issue notice inviting the willing candidates for transfer, if the petitioner wishes to do so.

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.)