

01.12.2023
SL No.06
Court No.8
(gc)

CPAN 1520 of 2023

In

MAT 205 of 2023

(file not supplied)

Prapti Chakraborty

Vs.

Arup Sengupta,

The Commissioner of School Education, W.B.

Mr. Biswarup Biswas,

Mr. Gora Chand Samanta,

...for the Applicant.

Mr. Sanjib Das,

...for the Alleged Contemnor.

1. The learned Counsel for the petitioner submits that the order passed by the Commissioner of School Education, West Bengal dated 5th October, 2023 is an act of overreaching the direction passed by the school on 10th August, 2023 in denying the relief to the writ petitioner. In the appeal, we directed the Commissioner of School Education to consider the application for transfer of the petitioner on verification of the record and production of the relevant documents by the school authorities. We had also clarified that the transfer application should be considered on the basis of the norms prevalent at the relevant point of time and not on the basis of the subsequent circular. The interest of

the students would also be a relevant consideration.

2. In deciding the matter, the Commissioner of School Education has taken into consideration the 2015 unamended Rule which does not contemplate a single teacher post and also that the transfer, if effected, would jeopardise the teaching learning process in Sanskrit subject in school and the students would be the ultimate sufferer. In a contempt jurisdiction, we need to find out whether there has been any wilful and deliberate violation of the order since the said order cannot be said to be passed in wilful disobedience of the order passed by this Court. We are not in a position to accept the plea of the petitioner. This order, however, shall not prevent the writ petitioner to take appropriate steps in accordance with law.
3. We also clarify that we are only deciding the contempt application and not going into the merits of the final order passed by the Commissioner.
4. Accordingly, the contempt application stand dismissed.

5. However, there shall be no order as to costs.
6. A copy of the contempt application shall be served upon Mr. Sanjib Das, learned Counsel appearing for the alleged contemnor in course of the day.
7. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)