

Court No.
01.02.2023

(Item No. 90)

(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 26608 of 2022

Jayita Chattopadhyay
VS
The State of West Bengal & Ors.

Mr. Sabyasachi Chatterjee
Mr. Sandipan Das
Mr. Ankur Sharma
Mr. Badrul Karim
Ms. Indrani Roy
Ms. Kiron Sk.

.... For the petitioner
Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee

.... For the State
Mr. Subhrangsu Panda
Ms. Ina Bhattacharyya

.... For respondent Nos. 6 & 7

Affidavit of service affirmed on January 30,
2021 filed in Court today, is taken on record.

The petitioner claims to be an **Associate Professor of Sociology at Shree Agrasen Mahavidyalaya, Dalkhola, Uttar Dinajpur**. She claimed a General Transfer. She submitted a representation seeking transfer dated **March 30, 2019** at **page 41** to the writ petition before the respondent No. 5, the said representation had not yet received any attention of the State authority.

The College authorities are impleaded. Despite notice they chose not to be represented. The petitioner particularly averred in **paragraph 10** to the writ petition as to her choice for transfer and submitted that, at that relevant point of time in

March 2019 when she applied for transfer suitable vacancy was available in those Colleges. However, the present status of vacancy to those Colleges are not known to the petitioner.

Mr. Sandipan Das, learned advocate led by Mr. Sabyasachi Chatterjee, learned advocate placed reliance upon document at **page 27** to the writ petition and submitted that, the formal application for transfer was duly made and submitted by the petitioner.

Mr. Arindam Chattopadhyay, learned State counsel appeared for respondent Nos. 1 to 5.

After considering the submissions made on behalf of the appearing parties and upon perusal of materials on record, to sub-serve justice the respondent No. 5 is directed to consider the said transfer application of the petitioner at **page 27** read with her representation dated **March 30, 2019** at **page 41** to the writ petition after giving at least seven days prior hearing notice to the petitioner, the College authority and the added respondent Nos. 8 and 9 and then after giving them an opportunity of hearing shall decide the issue with a reasoned order strictly in accordance with law.

It is made clear that, while considering the case of the petitioner the respondent No. 5 shall take into account the averments made by the petitioner in **paragraph 10** to the writ petition.

It is made clear that, this Court has not gone into the merit of the claim of the petitioner and the petitioner will be at liberty to urge whatever points she wishes to urge by relying upon whatever documents and records before the respondent No. 5. The College authorities shall also co-operate with the respondent No. 5 in every respect by producing the relevant documents and records if necessary.

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

In the event, the decision goes in favour of the petitioner, in the light of the preference given by the petitioner mentioned in **paragraph 10** to the writ petition and in the event, no vacancy available at present at the institution mentioned in **paragraph 10** to the writ petition then the respondent No. 5 shall collect and prepare a vacancy status at the nearest point of the preference given by the petitioner in **paragraph 10** to the writ petition and shall take all further and consequential steps to give effect to transfer in favour of the petitioner in such available vacancy suitable for the petitioner in strict compliance with the prevailing statutory provisions.

In the event, no such vacancy is available either in the institutions mentioned in **paragraph 10** to the writ petition or any nearer Colleges then the respondent No. 5 by exercise of its judicious discretion shall consider the case of the petitioner strictly in accordance with law at the nearest possible place thereto.

The entire exercise as directed above, shall be carried out and completed by the respondent No. 5 within 10 weeks from the date of communication of this order.

On the above terms, this writ petition being **WPA 26608 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.)