

27-09-2023
Court No.3
Sh/2.

**In The High Court At Calcutta
Jalpaiguri Circuit Bench**

W.P.A. 2923 of 2022

Asis Chakraborty.

-Vs-

The State of West Bengal & Ors.

Mr. Sudip Ghosh Chowdhury,

Mr. Anirban Banerjee.

For the petitioner.

Ms. Supriya Singh.

For the respondent nos.5 & 6.

Mr. Bikramaditya Ghosh.

For the S.S.C.

Mr. Subir Kumar Saha, AGP,

Mr. Momenur Rahaman.

For the State.

The petitioner currently serves as an Assistant Teacher at Bengkandi Junior High School, in Jalpaiguri.

The petitioner submitted an application before the District Inspector of Schools (S.E.), Jalpaiguri seeking his transfer to any school in Purba Burdwan.

The prayer of the petitioner was rejected by the District Inspector of Schools (S.E.), Jalpaiguri by the order impugned dated July 6, 2022. The said District Inspector of Schools was of the view that no substitute teachers had been secured from nearby schools to cover the transfer proposal of the petitioner.

The said District Inspector of Schools, therefore, expressed his opinion that no arrangement could be made in terms of Memo No.10-S.E. dated January 3, 2022 issued by the School Education Department of the State.

Learned advocate appearing on behalf of the petitioner has relied upon a Division Bench judgment delivered in MAT 205 of 2023 (Prapti Chakraborty Vs. State of West Bengal & Ors.) to contend that “10% rules” should not serve as determinant when evaluating the transfer application of the petitioner.

Mr. Bikramaditya Ghosh, learned advocate appearing for the School Service Commission submits that the judgment delivered Prapti Chakraborty (supra) is not applicable in the present case since the School has a sanctioned strength of only three teachers.

I am of the view that the petitioner’s case was not rejected by the concerned District Inspector of Schools by applying “10% rules”. In fact, the District Inspector of Schools is disregard the said rules, considered the case of the petitioner in the light of the notification dated January 3, 2022 issued by the School Education Department of the State.

Nothing has been submitted before this Court regarding the rationale underpinning the impugned memorandum.

Given this perspective, I do not discern any reason to entertain this application.

Nevertheless, this shall not preclude the petitioner from submitting a fresh application seeking his transfer if there is any change in circumstance that justifies his transfer.

Needless to mention that in the event a fresh application is made, the same shall be considered in accordance with law.

Accordingly, WPA 2923 of 2022 is disposed of.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(KAUSIK CHANDA, J.)