

17.11.2023
Sl. No.2
srm

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE

W.P.A. No. 2452 of 2023

Sanghamitra Bagchi

Vs.

The State of West Bengal & Ors.

Mr. Sakit Pada Jana,
Mr. Debojit Kundu

....for the Petitioner.

Mr. Subir Kumar Saha,
Mr. Momenur Rahman

.....for State-respondents.

Affidavit-of-service is taken on record.

The petitioner is aggrieved by the return of her application for transfer from Dalkhola High School to any other school in Siliguri. The District Inspector of Schools (S.E.), Uttar Dinajpur returned the second application made by the petitioner on the ground that the earlier application was also returned on April 18, 2022. The petitioner sought transfer on medical grounds

According to the petitioner, the District Inspector of Schools could not have continuously returned the application for transfer without following the rules which

mandate that the District Inspector of Schools was required to seek medical opinion from the Chief Medical Officer of Health of the district upon medical examination of any teacher who applies for transfer on medical grounds. If the medical examination report goes in favour of the teacher in terms of Rule 4 of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015, the District Inspector of Schools was bound to consider the case of transfer in accordance with the said Rules.

Mr. Rahman, learned Advocate for the State-respondents submits that the Utshashree portal has been suspended and as such the application has no merit. Secondly, it is submitted that no orders can be passed on the District Inspector of Schools (SE), Uttar Dinajpur as the said authority is beyond the jurisdiction of the Court.

This Court finds that a mandamus upon the District Inspector of Schools (SE), Uttar Dinajpur cannot be issued on the facts and circumstances of the case.

However, although the Utshashree portal has been suspended, the pending application should be considered in accordance with the rules. As the grievance of the petitioner is non-compliance of Rule 6(3)(b) by the District Inspector of Schools (SE), Uttar Dinajpur, the petitioner is

at liberty to approach the Commissioner of School Education, Directorate of School Education, Government of West Bengal with her grievance and if the grievance of the petitioner is found to be genuine, the Commissioner of School Education shall pass necessary directions, upon hearing the petitioner, upon the competent authority to take steps in accordance with law on the basis of the pending application of the petitioner. However, if it is found that the grievance of the petitioner is not genuine, the authority shall indicate such reasons, based on the rules and law applicable to the case of the petitioner. The reasoned order shall be passed in this regard by the Commissioner, within a period of two months from the date of receipt of the petitioner's representation.

Needless to mention, if the Commissioner of School Education is of the view that the District Inspector of Schools (SE) had wrongly proceeded by returning the application of the petitioner, necessary directions shall be issued upon the competent authority to proceed on the basis of the earlier application, without calling for any further application.

The petitioner will be entitled to rely upon all rules, orders and decisions available in this regard.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are directed to act on the basis of the server
copy of this order.

(Shampa Sarkar, J.)