

November 22, 2023
Sl. No. 15
Court No.2
s.biswas

**In the Calcutta High Court
Circuit Bench at Jalpaiguri
Appellate Side**

WPA 2495 of 2023

Pinki Keshari

vs.

The State of West Bengal and others

Mr. S. P. Lahiri

Mr. Debajit Kundu

... for the petitioner

Mr. Subir Kumar Saha, AGP

Ms. Bedashruti Bose

... for the State

Mr. Bikramaditya Ghosh

... for the SSC

Affidavit of service filed by the petitioner is taken on record.

The petitioner's application for general transfer from Matelli Rashtra Bhasa Vidyalaya to any other school in North 24 Parganas was turned down on three occasions. On two occasions, the ground for rejection was non-compliance of Sub-Rule 6 of Rule 5. By the said provision, the school authority has been prevented from forwarding the applications for transfer received from more than 10% of the total number of teachers of the school. The school managing committee intimated the petitioner that the petitioner did not fall within 10% of the senior most teachers and his candidature for general transfer could not be forwarded.

It appears from the status uploaded in the Utsashree portal, which is annexed at page 29 of the petition that the first phase for consideration of such application had been completed by the managing committee and 10% of the senior most teachers who had applied for general transfer had been accommodated. As the petitioner did not fall within 10% of the total teacher who had applied for transfer on the ground of seniority, the petitioner's case was not considered.

It further appears that the petitioner was asked to wait when the next phase for such transfer shall be published by Government notification.

Although the rules do not permit the school authority to forward the applications for general transfer of more than 10% of teachers of the school, priority being given to the teachers senior in age, there does not appear to be any embargo in the rules to the effect that the application for transfer can only be filed when there are Government notifications permitting acceptance of such transfer application by the school authorities.

Under such circumstances, although the petitioners application for general transfer may

not have been considered in the earlier occasions on the ground that her application did not fall within the 10% of the total strength of the teachers according to seniority in age, the rules do not prohibit the teacher to apply afresh for general transfer. It is up to the authority whether the application should be allowed or not, but nothing prohibits the petitioner from applying for transfer before the school authorities and the petitioner does not require to wait for any government notification in this regard.

Under such circumstances, the petitioner will file an application for transfer before the school managing committee. The said application shall be processed by the concerned school authority in accordance with the rules and if the petitioner is found eligible, necessary steps shall be taken by the other authorities in accordance with rules. If the petitioner's application for general transfer is considered favourably, the petitioner shall be shown the vacancy position for exercising option for any particular school.

The entire exercise shall be completed within a period of four months from the date of receipt of the application for transfer from the petitioner. If the petitioner is found ineligible by any of the

authorities during the process, the reasons shall be intimated to the petitioner.

The writ petition is accordingly disposed of.

All the parties are directed to act on the basis of the server copy of the order.

(Shampa Sarkar, J.)