

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Harish Tandon

And

The Hon'ble Justice Prasenjit Biswas

MAT 338 of 2024

with

CAN 1 of 2024

Debasish Datta

Vs.

The State of West Bengal & Ors.

For the Appellant	:	Mr. Shuvro P. Lahiri, Advocate Ms. Shipra Naskar, Advocate Mr. Akash Saha, Advocate
For the WBBSE	:	Ms. Koyeli Bhattacharya, Advocate Mr. Bibek Dutta, Advocate
For the SSC	:	Mr. Sunit Kumar Roy, Advocate
Heard on	:	July 15, 2024
Judgment on	:	July 15, 2024

The Court:

1. A recent trend has developed at the Bar in achieving something which is either impermissible in law with an avowed object of impeding the decision to be taken by the Authority with free mind on the basis of the documents submitted to it. In other words, the arguments are advanced, despite the fact that the authority has not applied its mind to an issue, to record what the Bar may perceive that the authority may take such point and invited the attention of

the Court to take care of such presumptive impression prevailed in the minds of a legal acumen which may be based upon the past experience in the conduct of the authority.

Page | 2

2. The Court should not record its findings which would impede the fair, transparent and impartial decision to be taken by the authority either there is no pleading in this regard nor on the *ipse dixit* of the submission made at the Bar, in other words, mere drop of the hat as the Counsel having a persuasive appearance in the matter. The Court must restrict its consideration on the basis of the pleadings in pursuit of granting relief to the litigant, in accordance with law, and should stay away from recording any observations which not only impede the mind of the authority to be exercised in free and fair manner but something which could not be achieved directly shall be attempted to achieve indirectly.
3. This is a classical example of such case where writ Court was moved for inaction on the part of the competent authority to process the application for transfer and the said writ-petition was dismissed by the Single Bench as it did not find the ground of transfer to be convincing.
4. It is to be remembered that the Court must travel on the peripheral of the cause of action pleaded in the writ-petition and should not transgress its circumference unless necessitated by a subsequent event arisen during the pendency of the said proceedings. The Court should not substitute itself into the armchair of the statutory authority in deciding the issues which are purely administrative in nature.

5. The management and administration of the system lies with the administration and it is only on well-settled legal parameters defined in catena of judicial decisions, the power and jurisdiction of the Court is to be exercised within the folds of those legal parameters. Usurpation of powers of the administrative authorities and substituting itself in such domain, the Court should not reject the application as the ground for transfer does not appear to be convincing.
6. We are not convinced with the manner in which the writ-petition is dismissed rather we find that the statutory rules i.e. the West Bengal School Service Commission (General Transfer, Transfer on Special Ground and Re-allocation) Rules, 2018, contains an exclusive provision relating to the right of the teachers to seek for transfers and the procedures relating to such application. Whether the ground disclosed in the application would come within the four corners of the provisions contained in the aforesaid Rule, such matter to be decided by the administrative authority taking into account the various factors and obviously in uniform manner eradicating any suspicion of discrimination permeating into the mind of any teacher.
7. In the instant case, the authorities have kept the application for transfer in suspended animation having not taken any decision therefore, the scope of the writ-petition was restricted to such inaction and the Single Bench ought not to have substituted itself to the place of the administrative authority in rejecting the said application.
8. However, in course of the hearing, the Counsel for the respondent-authority submits that the application was directly made to the District Inspector of School (SE), Hooghly which ought to have been routed through the

Managing Committee of the School and the aforesaid facts led the authority in not proceeding with the said application. In other words, it is sought to be contended that the application must route through proper channel and, therefore, the applicant cannot bypass the same.

Page | 4

9. Without venturing to go into the aforesaid disputed aspect and in order to streamline the process, as we find that the statutory Rules confers right to apply for transfer, we, therefore, direct the appellant to file a copy of the said application to the Headmaster of the said School to be placed before the Managing Committee for taking a conscious decision.
10. The Resolution of the Managing Committee shall be forwarded to the District Inspector of Schools for further action, if required.
11. Since we have passed the aforesaid direction, the impugned order cannot withstand. The same is hereby set aside.
12. The entire process shall be completed within two months from date of communication of this order.
13. The appeal being **MAT 338 of 2024** and the connected application being **CAN 1 of 2024** are **disposed of**. No order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J)

