

04.11.2024
Court No. 18
Item No. 63
(Suvendu)

WPA 7868 of 2023

Abhijit Mali
-Versus-

The State of West Bengal & Ors.

Mr. S.P. Lahiri
Mr. Rajesh Naskar
Mr. Ankon Mondal

.....for the petitioner

Mr. Sunir Kr. Roy

....for the WBCSSC

Ms. Munmun Tewary
Ms. Sanchayita De

....for the State

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

Matter relates to transfer of the petitioner
which could not be processed since petitioner
was found to be single teacher in the subject in
the school.

During course of hearing, learned advocate
representing the petitioner has drawn attention
to the order dated 11th August, 2022 passed by
a Coordinate Bench on another writ petition
being WPA 2921 of 2022 preferred by the
petitioner. According to the petitioner, decision
to reject transfer application of petitioner by

school authority where petitioner is presently working was erroneous which prompted petitioner to approach the Coordinate Bench and while allowing said writ petition necessary directions were given for due consideration of transfer application of petitioner.

Another limb of submission made on behalf of the petitioner is based on the order of the Hon'ble Division Bench dated 8th August, 2024 passed on intra-court appeal being MAT 1218 of 2024 (Gokul Chandra Mallick Vs. The State of West Bengal & Ors.). According to the petitioner, it has been decided by the Hon'ble Division Bench that in case of a single teacher in the subject in terms of the Government Notification dated 3rd January, 2022 issued by the Additional Secretary to the Government of West Bengal, Department of School Education, the concerned District Inspector of Schools is bound to find out an alternative teacher on transferring applicant-teacher and to ensure local arrangement in the school where applicant-teacher is working. Petitioner prays for necessary directions upon State respondents for his transfer upon finding out alternative teacher in terms of the said notification dated 3rd January, 2022 and the concerned District

Inspector of Schools is under obligation to depute an alternative teacher temporarily for transfer of the petitioner.

State respondents and West Bengal Central School Service Commission are represented by learned advocates who have jointly submitted that it is a case of transfer on compliance of the procedure as contemplated under the Government Order dated 3rd January, 2022, therefore, District Inspector of Schools is required to make an endeavour to find out willing teacher from neighbouring schools to facilitate transfer of the petitioner.

In addition thereto, written instruction dated 20th August, 2024 of the District Inspector of Schools (SE), Malda is placed before this Court for consideration.

Having considered the issue involved in this writ petition, it transpires that transfer application of the petitioner could not be processed by the concerned District Inspector of Schools since petitioner was found to be single teacher in the subject in the school.

Question arises for consideration whether in taking decision on transfer application of the petitioner the concerned District Inspector of

Schools took steps in terms of the Government Notification dated 3rd January, 2022 or not.

On perusal of the relevant documents, it appears that after the order was passed by the Coordinate Bench on 11th August, 2022 the concerned District Inspector of Schools vide memo dated 1st September, 2022 and subsequently on 27th June, 2023 made endeavour to find out willing teacher who could man the post of the petitioner on his transfer till regular incumbent joins the post. Since no willing teacher was found vide memo dated 12th September, 2022 the concerned District Inspector of Schools sought direction from the higher authority with regard to the steps taken relating to transfer application of the petitioner. Therefore, it appears that the concerned District Inspector of Schools did not sit ideal over the transfer application of the petitioner at least after the order was passed by the Coordinate Bench on 11th August, 2022.

Though submission has been made on behalf of the petitioner on the strength of the order of the Hon'ble Division Bench passed in *Goukul Chandra Mallick (supra)* that the concerned District Inspector of Schools is under obligation to find out a willing teacher but on

reading relevant paragraphs of the said order of the Hon'ble Division Bench dated 8th August, 2024, it appears that observations were made based on a letter dated 24th May, 2022 issued by the concerned District Inspector of Schools. The Hon'ble Division Bench expressed dissatisfaction with regard to the steps taken by the concerned District Inspector of Schools in terms of the Notification dated 3rd January, 2022. In paragraph 13 of the said order dated 8th August, 2024 specific finding has been made by the Hon'ble Division Bench that no steps have been taken by the State authorities in terms of the notification dated 3rd January, 2022. However, the case at my hand is not akin to the facts which have been narrated in the order dated 8th August, 2024 passed by the Hon'ble Division Bench.

In the present case, after the order passed by the Coordinate Bench on 11th August, 2022 it appears that the concerned District Inspector of Schools on issuing memoranda dated 1st September, 2022 and 27th June, 2023 made endeavour to find out alternative teacher who can man the post of the petitioner till regular incumbent joins the resultant vacancy after petitioner's transfer. In addition thereto,

another memorandum was issued on 12th September, 2022 addressed to the Higher authorities seeking instruction.

Since this Court finds that steps have been taken by the concerned District Inspector of Schools in order to find out willing teacher who can man the post after transfer of the petitioner temporarily till regular incumbent joins the resultant vacancy this Court finds that no further order need be passed at this stage.

Accordingly, the writ petition stands disposed of.

There shall be, however, no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Saugata Bhattacharyya, J.)