

03.10.2024
sayandeep
Sl. No. 09
Ct. No. 08

FMA 734 of 2024
With
CAN 1 of 2024, CAN 2 of 2024

Sankar Das
-Versus
The State of West Bengal & ors.

Mr. Ujjal Ray
Mr. Ivan Roy
Mr. Abdur Rahim

.... for the appellant

Mr. S. Bandopadhyay
Mr. Ritesh Kr. Ganguly

..... for the State

Mr. Sourav Mitra

....for the CSSC

Our attention is drawn to the information uploaded on the official website launched for processing the application for transfer, i.e., “UTHSHASHREE” portal indicating that the application is pending at the end of the School Service Commission; obviously for the purpose of recommendation. The said application passes through all tiers of filtration in terms of the statutory Rules and is ultimately pending before the School Service Commission whose primary role is to make a recommendation for the posting in a particular School on transfer. The learned Judge appears to have taken up the burden of considering the merit of the grounds on which the transfer was sought and found the same to be not convincing. The Court should avoid discharging the functions of the administrative authorities and should leave the same for taking a decision. The usurpation of the powers of the administrative authority in exercise of a judicial power is unwarranted and should be eschewed.

We thus cannot concur with the decision of the Single Bench whereby the writ petition was dismissed on the premise that the ground for transfer is not plausible and or reasonable. The School Service Commission is directed to take a conscious decision in accordance with law on an application for transfer forwarded to it within six weeks from the date of the communication of this order.

Accordingly, the appeal and applications are disposed of.

(Harish Tandon, J.)

(Partha Sarathi Sen, J.)