

09.07.2024
Sl. No.74(ML)
tkm

W.P.A. 13015 of 2022
(Mrinmoyee Mondal (Ghosh) vs. State of West Bengal & Ors.)

Mr. Rezaul Hossain
Mr. Parvez Hossain
... .. for the petitioner

Mr. Malay Kr. Singh
Ms. Neelam Singh
... .. for the State

Mr. Sourav Mitra
... .. for WBCSSC

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

Petitioner has come up with the present writ petition praying for transfer on the ground of distance in between her present school and the place of residence of the petitioner. Such transfer application was made on 14th January 2022 but the concerned respondent authorities did not allow the transfer application of the petitioner on the ground that the petitioner is a single teacher in the subject in the school.

Learned advocate representing the petitioner has relied upon a notification dated 3rd January 2022 issued by the Additional Secretary to the Government of West Bengal wherein provision has been made which has empowered the District Inspector of School to make local arrangement for teaching the subject temporarily till regular incumbent joins the post after the transfer of the petitioner, in a fit case.

Learned advocates represent the Commission and the State respondent submit that the transfer application of the petitioner was not processed since the petitioner was found to be a single teacher and the Utsashree Portal was suspended with effect from 29th September 2022.

However, it has been submitted on behalf of the commission that there is a notification dated 3rd January 2022 issued by the School Education department conferring right upon the District Inspector of Schools to take steps for making local arrangement which would facilitate transfer of the petitioner in the event, petitioner is found to be a single teacher.

Reliance has been placed on behalf of the Commission on the judgment of the Hon'ble Division Bench dated 2nd July 2024 passed by an intra court appeal being MAT 160 of 2024 (*Partha Ghosh vs. State of West Bengal & Ors.*).

Having considered the submissions made on behalf of the parties and taking note of the materials available on record the writ petition stands disposed of directing the concerned District Inspector of School to ensure local arrangements in the school by finding an willing teacher from a neighbouring school who would take class of the petitioner in the event the petitioner is transferred to another school, if the concerned District Inspector of Schools finds that it is a 'fit case', to take such steps in terms of the said notification dated 3rd January 2022.

Reliance is also placed on the observation made in *Partha Ghosh* (supra) wherein Hon'ble Division Bench held that in order to bring a case within peripheral of the 'fit case', the authority must take a pragmatic and reasonable decision and having done so, the scope of judicial review becomes limited.

In the present case at my hand, no decision has been taken by the concerned District Inspector of Schools on the anvil whether it is a 'fit case' or not which attracts an exercise in terms of notification dated 3rd January 2022 and that being the reason, court is directing the concerned District Inspector of Schools to take steps for making local arrangement if it is found that it is a 'fit case'.

In the event local arrangement is made in terms of the notification dated 3rd January 2022 consequential steps shall be taken for transfer of the petitioner by taking decision based on the transfer application of the petitioner within a reasonable time.

The writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)