

05.08.2024
sayandeep
Sl. No. 101
Ct. No. 08

MAT 1198 of 2024
With
CAN 1 of 2024

Sumita Saha
Vs.
The State of West Bengal & ors.

Mr. Sudip Ghosh Chowdhury
Ms. Shreyeta Mitra
... for the appellant
Dr. Sutanu Kr. Patra
Ms. Supriya Dubey
..... for the WBCSSC
Mr. Ziaul Islam
Mr. Syed Nasirul Hossain
.....for the State

The application for transfer necessitated on medical ground is rejected by the DI of Schools (SE), Birbhum on the ground that the School authorities did not forward the No Objection Certificate. The effect of such rejection is evident that though the School authorities forwarded the application for transfer but without accompanying the No Objection Certificate and, therefore, the rejection does not appear to have been made on merit but on technicalities.

On the last occasion, we directed the appellant to serve the copy of the application upon the School Authorities which in fact has been done.

The affidavit-of-service filed today would reveal that the service was effected on 16.07.2024. Yet there is no representation on the behalf of the School authorities.

The relevant Rules applicable in relation to a transfer postulates an application to be made before the headmaster/headmistress to be placed before the School Management Committee and after taking into consideration the factors emanating from the statutory provisions may forward the application to the concerned DI along with the No Objection Certificate. In the event, the case does not deserve to be forwarded to the DI, the reasons have to be recorded therefor and to be communicated to the applicant/incumbent.

Withholding of a No Objection Certificate in a fit or genuine cases would frustrate the very purpose for which the Rules relating to transfers have been promulgated. Without venturing to go into the merit or demerit of the application for transfer, we find that the rejection of the application for transfer is only on technical ground and, therefore, we direct the School authorities to take a conscious decision on the said application within two weeks from the date of communication of this order and shall communicate the same to the appellant within a week therefrom.

Accordingly, the appeal and application are also disposed of

(Harish Tandon, J.)

(Prasenjit Biswas, J.)