

13.06.2024
Court No. 18
Item No.117 (ML)
(Suvendu)

WPA 17976 of 2022

Haridas Sardar

-Versus-

The State of West Bengal & Ors.

Mr. Sudip Ghosh Chowdhury

..... for the petitioner

Mr. Sourav Mitra

.....for the WBCSSC

Mr. Arindam Chattopadhyay

Ms. Lipika Chattopadhyay

.....for the State

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

The petitioner has challenged the failure
on the part of the concerned respondent
authorities in deciding the application for
general transfer. In this regard, attention of this
Court has been drawn to page 18 of the writ
petition. From the said document it appears
that the application was made on 1st February,
2022 but the District Inspector of Schools (SE),
Purba Medinipur on 9th March, 2022 refused to
take steps on the ground that the petitioner was
found to be a single teacher in the subject in the

concerned school and the application of the petitioner was sent back to the school authority. While questioning the acts and actions of the concerned District Inspector of Schools, the learned advocate representing the petitioner has relied upon a Government notification dated 3rd January, 2022 wherein a procedure has been laid down in the event the authority finds that the applicant seeking transfer is a single teacher in the subject in the school. If the District Inspector of Schools finds that the applicant seeking transfer is a single teacher in the subject in the school, District Inspector of Schools in his turn shall take necessary steps to make local arrangement by finding out a teacher from nearby school who is willing to function temporarily as the subject teacher in the school of the applicant. If such arrangement can be successfully made by the concerned District Inspector of Schools, as it has been submitted on behalf of the petitioner, there is no difficulty to consider the application for general transfer of the petitioner by the concerned authority of the Commission.

With regard to suspension of Utsashree Portal, reliance has been placed on the order of

the Hon'ble Division Bench dated 12th March, 2024 passed on an intra-court appeal being **MAT 339/2024 (Apurba Biswas Vs. The State of West Bengal & Ors.)**. On perusal of the said order of the Hon'ble Division Bench, it appears that it has been observed that procedural law cannot defeat substantive rights and it is required to assist and aid the object of the statute. Once right of the petitioner is crystallized to get the benefit of transfer in terms of the West Bengal School Service Commission (General Transfer, Transfer On Special Grounds and Reallocation) Rules, 2015 such right cannot be curtailed by mere suspension of Utsashree Portal.

The learned advocate representing the West Bengal Central School Service Commission (for short, "Commission") submits that the notification dated 3rd January, 2022 needs to be complied with if it is found that the applicant is a single teacher in the subject in the school where he is discharging his duty.

Having considered the submissions made on behalf of the parties, this Court finds that mere suspension of Utsashree Portal cannot operate as fetter on the right of the petitioner to

get transferred in terms of the relevant provisions of the aforesaid Rules of 2015 and in this regard reliance has been placed on the order of the Hon'ble Division Bench in **Apurba Biswas** (supra).

However, in the present case it appears from a document at page 18 that the petitioner was found to be a single teacher in the subject in the concerned school which warrants compliance of notification dated 3rd January, 2022.

Accordingly, the concerned District Inspector of Schools (SE), Purba Medinipur is directed to take steps and make serious endeavor to make local arrangement as contemplated under the said notification dated 3rd January, 2022. If local arrangement can be made by the concerned District Inspector of Schools, the same shall be intimated to the Chairman of the Commission and the Chairman of the Commission in his turn shall take decision on the transfer application of the petitioner in accordance with law within a reasonable time and such decision shall be communicated to the petitioner thereafter.

With the above observations and directions, 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.)