

26.09.2024
Court No. 18
Item No. 31
(Suvendu)

WPA 18973 of 2022

Krishna Roy
-Versus-

The State of West Bengal & Ors.

Mr. Ujjal Ray
Mr. Sk. Abdur Rahim
.....for the petitioner

Mr. Kanak Kiran Bandyopadhyay
.....for the WBCSSC

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

Affidavit of service filed on behalf of the petitioner in terms of order dated 2nd September, 2024 is taken on record.

Mr. Singh, learned advocate representing State respondents has filed report in the form of affidavit in terms of order dated 2nd September, 2024. Same is also taken on record.

On perusal of the said report filed on behalf of the District Inspector of Schools (SE), South 24 Parganas, it appears that at present there are three regular teachers in Bengali working in the school including present petitioner. Apart from regular teachers in

Bengali, three para teachers in Bengali are also functioning in the school.

Considering robust staff strength in Bengali subject, this Court does not find any impediment in transferring petitioner to another school since it is transfer on medical ground as petitioner is suffering from ailment.

However, authority of Pathpukur High School (HS), South 24 Parganas, being respondent nos. 7 to 9, has refused to forward transfer application of petitioner which was made online on 9th July, 2022.

From the report it further appears that vide letter dated 5th August, 2024 of the Teacher-in-Charge of the aforesaid school addressed to the concerned District Inspector of Schools it was intimated that roll strength of the said school is 3075 in the academic session of 2024 and 31 teachers are working. Pupil-Teacher Ratio should not fetter right of the petitioner seeking transfer on medical ground since it has been provided in amended Rule 6(2)(e) of the West Bengal School Service Commission (General Transfer, Transfer On Special Grounds and Reallocation) Rules, 2015 as contained in the notification dated 8th September, 2021 that bar on transfer due to

poor Pupil-Teacher Ratio needs to be dispensed with while considering case of transfer on medical ground.

In spite of service of notice upon the school authority of Pathpukur High School (HS), South 24 Parganas, said authority is not represented today before this Court.

In view of aforesaid discussion, school authorities of Pathpukur High School (HS), South 24 Parganas, being respondent nos. 7 to 9, are directed to forward transfer application of the petitioner to the District Inspector of Schools (SE), South 24 Parganas, being respondent no. 5 by seven days from the date of communication of this order. On receipt of transfer application, respondent no. 5 is directed to obtain medical report from the concerned Chief Medical Officer of Health (CMOH) on medical verification of petitioner and if medical report justifies transfer of petitioner, respondent no. 5 shall forward transfer application of the petitioner along with medical report to West Bengal Central School Service Commission for taking final decision. Aforesaid exercise shall be completed by respondent no. 5 by six weeks from the date of receiving transfer application from the school authority. If transfer application is received by

the Commission, Chairman of the Commission shall decide transfer application within a reasonable time.

The writ petition is accordingly 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 undertakings.

(Saugata Bhattacharyya, J.)