

27.06.2024
Court No. 18
Item No. 05
(Suvendu)

WPA 19342 of 2022

Dibas Mondal & Anr.
-Versus-
The State of West Bengal & Ors.

Mr. K.M.Hossain
Mr. Kazi Ardan Ali
.....for the petitioner

Ms. Tuli Sinha
.....for the State

Mr. Mrinal Kanti Ghosh
Mr. Sounak Bhattacharya
Mr. Chandra Nath Sarkar
.....for the school authorities

The writ petition is finally heard in presence of the learned advocates representing the petitioners, respondent no.6 and State respondents.

The issue needs to be considered in this writ petition is whether the petitioners being the Assistant Teachers of a Government aided High School can be permitted to be transferred in terms of the amended Rule 6 (2)(b) of the West Bengal School Service Commission (General Transfer, Transfer On Special Grounds and Reallocation) Rules, 2015 which was brought into effect vide notification dated 8th September, 2021 since admittedly criminal proceedings are pending against both the petitioners.

The petitioners have made application for general transfer to some other schools in terms of the aforesaid Rules of 2015 which have not been allowed by the concerned respondent authorities.

Shorn of unnecessary details it can be recorded that there are criminal proceedings which are pending against both the petitioners.

In terms of the aforesaid amended Rules 6(2)(b), as contained in the notification dated 8th September, 2021 amending the Rules of 2015 there is embargo in transferring the teachers during pendency of departmental/ judicial proceedings.

The learned advocate representing the petitioners submits on instruction that judicial proceedings are pending before the trial court on being remanded by the appellate court.

In view of such situation, no order can be passed directing the respondent authorities to take steps for transferring the petitioners.

Accordingly, the writ petition stands dismissed.

There shall be, however, no order as to costs.

However, this order shall not preclude the petitioners to make applications seeking transfer after conclusion of judicial proceedings, if situation so arises.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Saugata Bhattacharyya, J.)

