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30.08.2024
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 19876 of 2024

**Kamal Bera
-versus
The State of West Bengal & Ors.**

**Mr. Sudipta Dasgupta,
Mr. Arka Nandi.
...For the Petitioner.**

**Mr. Santanu Mitra, SGA
Ms. A. Ghosh.
...For the State.**

**Mr. Ranjan Saha.
...For DPSC, South 24-Pgs.**

**Mr. Shamim Ul Bari,
Ms. Asmita Mitra.
...For the Respondent Nos. 7 & 8.**

**Mr. Kumar Jyoti Tewari,
Mr. Proloy Bhattacharyya.
...For the Respondent Nos. 12 & 13.**

Affidavit-of-service filed in Court today is taken on record.

The petitioner is aggrieved by the act on the part of the school authority of Ramkrishna Saradapeeth Junior Basic School in not permitting her to perform the duties of head teacher of the said school in terms of the office memorandum No. 800/1(5)/HT/DPSC, JGM-2023 dated 6th March, 2024. Though the petitioner

joined the subject school on transfer but she was not allowed to perform her duties.

The Chairman of the DPSC has temporarily posted the petitioner to perform as head teacher in Newtownship Primary School vide Memo No. 309/JGM/DPSC/24 dated 19th June, 2024.

The petitioner submits that she may either be allowed to perform duties in Ramkrishna Saradapeeth Junior Basic Primary School or her service in the Newtownship Primary School be regularized.

Learned advocate appearing on behalf of the school authority submits, upon instructions, that the school is seeking special power for autonomy in its favour. The school is located in the campus of Sri Ramkrishna Saradapeeth Kanya Gurukul which is a charitable Trust. The Trust has already approached the Government for granting special power for selection of teachers in the Junior Basic School which is currently under the control of the DPSC, Jhargram.

Jhargram, DPSC does not have any objection if special power is granted in favour of the Junior Basic School for selection of teaching staff. The Chairman of the Council records that the existing assistant teachers who are presently posted in the Junior Basic School appointed by the Council are to be relocated at various primary schools under the Jhargram Municipality area considering the pupil-teacher ratio if special power is granted in favour of the Junior Basic School.

It appears that keeping in mind the request of the school seeking special power to appoint teachers, the Council has temporarily posted the petitioner in a

different school. There is no request on record to suggest that the petitioner sought regularization in the school where she is temporarily posted.

Admittedly, the service of the petitioner is a transferrable one. The petitioner was earlier serving in the subject school and has been currently posted in a different school. The petitioner cannot insist for being posted in the same school as head teacher. The employer is the best person to ascertain the skill of the teacher and post her in a school where her service can be utilized to the optimum level.

It will be open for the petitioner to approach the Council for permanent posting in the school where she is temporarily posted.

In the event such a representation is made, the same shall be considered by the Council at the earliest but positively within a period of four weeks from the date of submitting the representation.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)