

W.P.A. 19692 of 2022

**Sabina Eyasmin
Vs.
The State of West Bengal & Ors.**

Mr. Sakti Pada Jana
Mr. Subhajyoti Das
...for the petitioner

Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee
...for the State

Mr. Uday Narayan Betal
Mr. Bhaskar Hutait
....for the respondent no. 7

Mr. Sourav Mitra
...for the WBCSSC

The writ petition is heard finally in presence of the learned advocates representing the petitioner, school authorities of Moyna Vivekananda Vidyamandir (H.S.), District-Purba Medinipur (hereinafter referred to as the said school), State-respondents and the West Bengal Central School Service Commission.

Question crops up for consideration is whether the general transfer application of the petitioner on the ground of distance in between the place of residence of the petitioner and the present school dated 5th August, 2022 can be rejected on the ground that the petitioner is a single Bio Science teacher in higher secondary section in the said school.

On the last occasion, Mr. Sakti Pada Jana, learned advocate representing the petitioner submitted that the said school is having two teachers in Biological Science one

in normal section and another in higher secondary section. Petitioner is working as an assistant teacher in Biological Science in higher secondary section. It is the contention of the petitioner that since another teacher is manning the post of assistant teacher in Biological Science in normal section the said school authority cannot treat the petitioner as a single teacher in Biological Science in the said school.

In order to find the veracity of the submission made on behalf of the petitioner Court directed the learned advocate representing the said school authority to produce the present staff pattern of the school. The staff pattern of the school is placed before this Court and the same is taken on record. On perusal of the said staff pattern it appears that apart from the petitioner being an assistant teacher in Biological Science there is an assistant teacher named Laltu Ghara having academic qualification of M.Sc. (BIOS) B.Ed who is manning the post of assistant teacher of Biological Science in normal section. In consideration of the staff pattern of the said school it appears that the contention of the petitioner is found to be correct.

Now, whether presence of an assistant teacher in Biological Science in normal section apart from the petitioner being the assistant teacher in Biological Science in higher secondary section would facilitate the transfer of the petitioner or not upon considering the fact that petitioner is not a single teacher in the subject in the said school. While deciding the issue this Court has also considered a decision of the District Inspector of Schools (SE), South 24 Parganas as contained in the memo dated 18th April, 2022 which is lying on the record as placed on last occasion on behalf of the petitioner. The District Inspector of Schools (SE), South 24 Parganas has decided in connection with another matter that since the post of assistant teacher in English in normal section and in higher secondary section are manned by two separate teachers the petitioner in that case ought not to be

considered as a single teacher in English in the school in question. The decision taken by the concerned District Inspector of Schools (SE), South 24 Parganas appears to be the correct view and the same view also is applicable in the present case since the said school is having two assistant teachers in Biological Science. In the event petitioner is transferred from the said school another teacher being an assistant teacher in Biological Science in normal section can take classes of Biological Science in Higher Secondary Section temporarily till regular incumbent joins the resultant vacancy which will arise on transfer of the petitioner.

Having considered this aspect the headmaster of the said school being respondent no. 7 is directed to forward the transfer application of the petitioner to the District Inspector of Schools (SE), Purba Medinipure by 7 (seven) days from the date of communication of this order for taking appropriate steps on the transfer application of the petitioner. On receipt of such transfer application the respondent no. 3 shall process such transfer application within fortnight thereafter and forward the same to the Chairman, West Bengal Central School Service Commission for taking final decision if the transfer application of the petitioner is found by the respondent no. 3 needs consideration in accordance with law.

It is made clear that suspension of “Utsashree Portal” shall not operate as fetter in taking decision on the transfer application of the petitioner.

In the event the transfer application of the petitioner reaches the office of the West Bengal Central School Service Commission the Chairman of the Commission in his turn shall take final decision within fortnight thereafter. The decision to be taken by the Chairman of the Commission shall be communicated to the petitioner within 1 (one) week thereafter.

With the aforesaid directions and observations, the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)