

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Before:

The Hon'ble Justice Hiranmay Bhattacharyya

W.P.A. 10552 of 2016

Smt. Arpita Guin

Vs.

The State of West Bengal & Ors.

With

W.P.A. 18505 of 2016

The Managing Committee of Barhra High School & Anr.

Vs.

The State of West Bengal & Ors.

With

W.P.A. 20005 of 2016

Smt. Arpita Guin

Vs.

The State of West Bengal & Ors.

With

W.P.A. 30719 of 2016

Smt. Arpita Guin

Vs.

The State of West Bengal & Ors.

For the Petitioner	: Mr. Subir Sanyal Mr. Shamim Ul Bari	advocates
For the State	: Mr. Ranjan Saha Mr. Sujit Chatterjee	... advocates
For the School Authority	: Mr. Indranil Roy Mr. Debashis Moitra	... advocates
For the State in W.P.A.20005 of 2016	: Mr. Pantu Deb Roy Mr. Subrata Guha Biswas	...advocates
Reserved On	: 14.12.2023	
Judgment on	: 21.03.2024	

Hiranmay Bhattacharyya, J.:-

1. The Chairman, West Bengal Central School Service Commission (for short “SSC”) vide Memo dated 30.03.2016 recommended transfer of Arpita Guin (for short “the teacher”) from Barhra High School (for short “the school”) to Uttar Rabindranagar Vivekananda High School (H.S.) (for short “the transferee school”). Pursuant to the said recommendation, the Administrator of the transferee school issued a letter dated 23.05.2016 appointing the teacher as an Assistant Teacher in the transferee school.
2. WPA 10552 of 2016 (for short “WP-1”) is at the instance of the teacher praying for issuance of a writ of mandamus commanding the School to issue the release order so that the teacher can join the transferee school.
3. WPA 18505 of 2016 (for short “WP-2”) is at the instance of the School praying for issuance of a writ of Mandamus commanding the SCC and its Chairman to rescind, recall and withdraw the Memo dated 30.03.2016.
4. WPA 20005 of 2016 (for short “WP-3”) is at the instance of the teacher praying for a direction upon the Teacher-in-charge of the School to release the arrear salary on and from January, 2016 after regularizing the leave of the teacher and for a further direction upon the school to forward relevant documents to the transferee school.
5. WPA 30719 of 2016 (for short “WP-4”) is at the instance of the teacher praying for issuance of a writ of Mandamus commanding the authorities of the transferee school to allow the teacher to join the transferee school without the release order.
6. Common question of law and fact arise in the aforesaid writ petitions for which the same were heard analogously and are being decided by this common order.
7. WP-2 has been filed for setting aside the recommendation for transfer vide Memo dated 30.03.2016. The other writ petitions have been filed

claiming various reliefs flowing from the said Memo dated 30.03.2016. This Court, therefore, proposes to decide the writ petition challenging the Memo dated 30.03.2016 first as the fate of the other writ petitions will depend upon the outcome of WP-2.

8. For better appreciation of the disputes involved between the contesting parties, narration of facts pleaded by the school and the teacher in WP-2 would suffice and, therefore, the relevant facts pleaded in the respective affidavits are stated hereinafter.
9. Case made out by the school in WP-2, in a nutshell are as follows-

The teacher was appointed as an Assistant Teacher in the School on and from 24.09.2008 on the recommendation of SSC and such appointment was duly approved. She made an application dated 24.06.2012 praying for her transfer to another school situated at a location near to her residence. The writ petition filed by her praying for transfer stood dismissed. Challenging the said order of dismissal of the writ petition, she preferred an appeal being MAT 940 of 2015. The said appeal was disposed of by an order dated 23.07.2015 directing the Chairman, SSC to take an appropriate decision on the application of the teacher praying for her transfer within the time limit stipulated thereunder. SSC filed a petition for Special Leave to Appeal (C) Nos. 29563-29565/2015 against the order dated 23.07.2015 which was disposed of by an order dated 22.01.2016 directing the SSC to take decision in accordance with the rules in force. Thereafter the Chairman, SSC issued the Memo dated 30.03.2016 recommending transfer of the teacher to the transferee school.

Being aggrieved by the order making recommendation for transfer, the Managing Committee and the Teacher-in-Charge of the School have approached this Court.

10. Teacher contested WP-2 by filing an Affidavit-in-opposition denying the allegations contained in the writ petition. The teacher stated that she was appointed as an Assistant Teacher of the School on 24.09.2008 and since the first day of her service, the school authority did not allow her to work smoothly and properly. She got married in the year 2010 and her husband is an Assistant Headmaster of a High School at Rajarhat in the district of 24 Parganas (N). She applied for transfer to a school near her residence on 24.06.2012. She further stated that on the basis of a false complaint dated 25.01.2012 lodged by one of the guardian, Kankartala P.S. Case no. 16 of 2012 was started against her which was subsequently quashed by an order dated 10.07.2019 by the Hon'ble High court in a criminal revisional application and on the basis of such order the entire proceedings against her has been dropped. She filed a writ petition being WP 34321 (W) of 2013 stating that he was facing serious inconvenience to attend the school which is far away from her residence. The said writ petition was disposed of on 11.12.2013 by directing the Commissioner of School Education to consider her representation. Thereafter, the Commissioner of School Education by an order dated 02.04.2014 directed her to apply in terms of Rule 5 of the 2013 Rules through the School Authority. Pursuant to the said order dated 02.04.2014, she submitted various representations and thereafter filed WP 28920 (W) of 2014 alleging inaction of the authorities. The said writ petition was dismissed on 04.02.2015. Challenging the order dated 04.02.2015 she filed MAT 940 of 2015 which was disposed of on 23.07.2015 by directing SSC to take appropriate decision for transfer. In the meantime, she applied for transfer on 27.06.2015 on special ground under Section 4 of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 (for short "the 2015 Rules"). Thereafter, the Chairman, SSC vide Memo dated 30.03.2016 recommended her transfer to the transferee school. She further stated that after the coming into force of the 2015 Rules, she submitted various representations for transfer as per the said Rules. Alleging that the

Teacher-in-Charge called her in his office chamber on 04.01.2016 and forcefully detained her and tried to obtain false undertaking, she lodged a complaint on 14.01.2016 before the Dubrajpur P.S. and also applied before the competent authorities on 21.01.2016 for transfer in terms of Rule 4(1)(b) of the 2015 Rules. It was also stated that the transfer order was issued in accordance with the Rules. It was stated that the school authority can in no way be aggrieved by the order of transfer.

11. School filed a Supplementary Affidavit for bringing on record certain subsequent events. It was stated that the teacher attended the school lastly on 07.01.2016. Due to long absence without any information with effect from 08.01.2016, school authority issued various letters. Since the teacher did not join the school, Managing Committee adopted a resolution and forwarded the issue of unauthorised absence to the Commissioner of School Education. The concerned District Inspector of Schools (SE), (for short "DI") forwarded an enquiry report in connection with unauthorised absence to the Board. On 06.09.2021 the authority of the Board issued a Memo declaring the post as vacant and subsequently the DI declared the post as vacant due to her resignation for long absence.
12. Mr. Roy learned advocate appearing in support of WP-2 contended that the teacher did not apply for transfer by following the procedure laid down under the 2015 Rules. He further contended that the teacher did not obtain the "No Objection Certificate" from the school and, therefore, her prayer for transfer under Rule 4(1)(c) of the 2015 Rules could not have been allowed by the SSC. He submitted that in view of the bar laid down under Rule 5(5) of the 2015 Rules, the prayer of the teacher for transfer could not have been allowed as criminal cases were pending against the teacher. Mr. Roy placed reliance upon a decision of the Hon'ble Division Bench in the case of ***The Headmaster, Bhotebari Sitanath High School & ors. vs. Mapita Samaddar & ors.*** reported at ***(2018) 3 CHN (Cal) 193*** in support of his contention that unless the

procedures laid down in 2015 Rules are followed, the groundwork for ordering a general transfer on special ground is not available. Mr. Roy further contended that the order recommending transfer of the teacher should be set aside and quashed as the same is a non-speaking one.

13. Mr. Sanyal, learned advocate for the teacher seriously disputed the submissions advanced by Mr. Roy. He contended that the teacher was subjected to mental and physical torture by the school authority as well as by the guardians and local people at the instance of the then teacher-in-charge. He submitted that it is not possible for a lady teacher to discharge her duties with honour and dignity and, therefore, the SSC was justified in recommending transfer of the teacher. By referring to various complaints/representations submitted by the teacher, Mr. Sanyal contended that the teacher being a victim of crime was entitled to apply for transfer and pendency of judicial proceeding cannot be a bar in allowing the prayer for transfer. He contended that the teacher applied for transfer in terms of Rule 4(1)(b) of the 2015 Rules and the SSC upon being satisfied allowed such prayer for transfer. He further contended that Rules 5 cannot be applied to cases falling under Rule 4. He also submitted that Rule 4(1) (b) and Rule 5(5) are contradictory as Rule 4(3) permits consideration of the application for transfer on special ground by a victim of crime during pendency of criminal case.
14. Mr. Sanyal submitted that the said Rules, therefore, suffer from infirmity. He contended that under such circumstances challenge to the Rules may not be necessary and in support of such contention he placed reliance upon the decision of the Hon'ble Supreme Court in the case of ***Shakuntala Sharma vs. High Court of H.P. at Shimla*** reported at **(1994) 2 SCC 411**. Mr. Sanyal contended that "No Objection Certificate" from the Head of the Institution is not a mandatory requirement and in support of such contention he placed reliance upon the decision of the Hon'ble Supreme Court in the case of ***Ram Deen Maurya vs. State of U.P. & ors.*** reported at **(2009) 6 SCC 735**. By placing reliance upon a

decision of the Rajasthan High Court in the case of **Ram Pratap vs. State of Rajasthan & ors.** reported at **(1982) 1 SLR 278**, Mr. Sanyal submitted that a transfer order need not be a speaking order. He further contended that since the recommendation for transfer was made to mitigate the hardship, this Court should not interfere with such order and in support of such contention he placed reliance upon the decision of the Hon'ble Supreme Court in the case of **Shilpi Bose & ors. vs. State of Bihar & ors.** reported at **1991 Supp(2) SCC 659**. Mr. Sanyal placed reliance upon a decision of the Hon'ble Supreme Court in the case of **Union or India & ors. vs. S.L. Abbas** reported at **(1993) 4 SCC 357** in support of his contention that a challenge to a transfer order should not be entertained by Court.

15. Mr. Sanyal placed reliance upon a decision of the co-ordinate bench in the case of **Ayesha Khatun vs. State of W.B. & ors.** in **WP No. 905 of 2011** delivered on February 17, 2012 in support of his contention that it is the statutory duty of the authority to place a lady teacher, who cannot discharge her duties with honour and dignity, to a suitable place.
16. Learned advocate appearing for the SSC defended the order passed by SSC by submitting that the same was passed in accordance with the directions contained in the order passed by the Hon'ble Division Bench of this Court and the Hon'ble Supreme Court and in terms of the 2015 Rules.
17. In reply, Mr. Roy contended that the decision in the case of **Ayesha Khatun** (supra) is not applicable to the case on hand as the same was delivered prior to the coming into force of 2015 Rules.
18. Heard the learned advocates for the parties and perused the material placed.
19. Mr. Sanyal would contend that the school authority cannot be said to be a person aggrieved by the order of transfer as they have the option for

appointment of new teacher through the SSC. Thus, the *locus standi* of the school authority to challenge the order of transfer has been questioned by the teacher. Mr. Sanyal would further contend that the teacher-in-charge having been placed under deemed suspension also do not have *locus standi* to file the writ petition.

20. The order dated 30.03.2016 recommending the transfer of the teacher appears to have been passed in terms of the provisions laid down under the 2015 Rules, more particularly Rule 4(1)(c) thereof. After going through the 2015 Rules this Court finds that the application for transfer has to be submitted to the concerned District Inspector of Schools (SE) through the Head of the institution or Secretary, Managing Committee or the Administrator as the case may be. It further appears that the Head of the institution, Secretary of the Managing Committee or the Administrator of the School has to issue No Objection Certificate to an incumbent to be recommended for general transfer under the 2015 Rules. To the mind of this Court the school undoubtedly has an important role to play in the issue relating to transfer as per the 2015 Rules. This Court, therefore, holds that the school has the *locus standi* to file a writ petition challenging the order of transfer passed under 2015 Rules.
21. In so far as the submission of Mr. Sanyal that the teacher-in-charge has no *locus standi* to maintain the writ petition as he was under deemed suspension, this Court is not inclined to accept such submission as there is no foundational basis in this regard in the affidavit in opposition filed by the teacher. That apart the school, which has the *locus standi* to file writ petition as already held by this Court, is also represented by the Secretary of the Managing Committee. The issue of maintainability of WP-2 at the instance of the school is answered in favour of the writ petitioner in WP-2.

22. This Court shall now proceed to decide whether the order of transfer dated 30.03.2016 can be sustained in the eye of law.
23. Pursuant to the order dated 11.12.2013 passed in WP No. 34321 (W) of 2013, the teacher submitted a representation before the Commissioner of School Education on 03.02.2014 stating that she has been facing various difficulties in discharging her duties as an Assistant Teacher of the school in the district of Birbhum. It was further stated that the school is situated more than 290 kms from her residence in the District of 24 Parganas (North) and it is not possible for her to attend the school regularly by travelling such a long distance. The Commissioner of School Education, by an order dated 02.04.2014, directed the teacher to apply to the District Inspector of Schools (SE), Birbhum through the school authority for her transfer. Thereafter, the teacher applied for transfer on 10.04.2014 and claims to have submitted several reminders thereafter. Alleging inaction on the part of the respondent authorities, the teacher filed a writ petition being WP 28920 (W) of 2014 which stood dismissed by an order dated 04.02.2015. Challenging the said order dated 04.02.2015 the teacher preferred an appeal being MAT 940 of 2015. The said appeal being MAT 940 of 2015 was disposed of by an order dated 23.07.2015 by directing the Chairman, SSC to take an appropriate decision on the application already submitted by the teacher praying for a transfer to a school in the District of 24 Parganas (North). The Hon'ble Division Bench was further pleased to observe that while issuing appropriate order regarding transfer of the teacher to a school in the district of 24 Parganas (North), the Chairman, SSC should keep in mind that the distance of the school of the husband should not be more than 50 Kms from the school where the teacher will be transferred. SSC filed a Special Leave Petition before the Hon'ble Supreme Court of India which was registered as Special Leave to Appeal (C) nos. 29563-29565/2015 and by an order dated 22.01.2016, the Hon'ble Supreme Court was pleased to clarify that the direction of the Hon'ble High Court to SSC to

take an appropriate decision shall mean that the SSC shall take such decision in accordance with the rules in force.

24. It is not in dispute that Rule 2015 was in force at the relevant point of time. Admittedly after coming into force of the 2015 Rules the teacher claims to have applied for transfer on special ground under Rule 4 of the 2015 Rules. It was specifically stated in the said application that her husband is also a school teacher of a government sponsored school and posted at Chapagachi High School (H.S.) under Post office Machibhanga, Rajarhat District-24 Parganas (North) which is 275 Kms away from the school of the teacher and her residence is 308 Kms away from her school. The teacher further claims to have submitted another prayer for general transfer on special ground under section 4(1)(b) of the 2015 Rules on 21.01.2016 alleging that she is a victim of crime. In reply to such representation, the Secretary, SSC by a memo being no. 84 dated 29.01.2016 informed the teacher that upon a recommendation being made from the school education department as per the rules, SSC will take further action.
25. Thereafter, the order dated 30.03.2016 recommending transfer of the teacher to the transferee school was passed by the Chairman, SSC.
26. Mr. Sanyal would contend that the teacher applied for transfer under Rule 4(1)(b) of the 2015 Rules and therefore, the order of transfer of the SSC is in terms of the relevant rules. In the affidavit-in-opposition, the teacher took the same stand.
27. In **Ayesha Khatun** (supra) a lady assistant teacher submitted a representation praying for her transfer from the school where she was discharging her duties to any other school away from her place of work. Allegation of sexual harassment at the work place was cited as a ground in the representation praying for transfer. Co-ordinate bench of this Court after noting the guidelines framed by the Hon'ble Supreme Court in the case of Vishaka and ors. vs. State of Rajasthan and ors. reported

at (1997) 6 SCC 241 held that in the absence of any statutory provision, the law making authority viz State can only take the ultimate decision, in exercise of its inherent power for placing the teacher in a suitable place where she can discharge her duties with honour and dignity and without any fear of sexual harassment and for regularizing her appointment in the transferred post by issuing necessary instruction to different authorities including the School Service Commission. The said decision of the co-ordinate bench was delivered on 17.02.2012 that is prior to the coming into force of the 2015 Rules.

28. 2015 Rules provides for transfer at the instance of a teacher who claims to be a victim of crime.
29. In the case on hand the teacher also applied for transfer on special ground under Section 4(1)(b) of the 2015 Rules on 21.01.2016 alleging that she is a victim of crime.
30. After going through the order dated 30.03.2016 this Court finds that the said order was passed under Rule 4(1)(c) of the 2015 Rules and not under Rule 4(1)(b). The teacher has not challenged the order dated 30.03.2016 on the ground of non-consideration of her prayer for transfer in terms of Rule 4(1)(b). In view thereof the decision of **Ayesha Khatun** (supra) do not come to the aid of the teacher.
31. For such reason this court, refrains from making any comment on the issue raised by Mr. Sanyal that Rule 4(1)(b) and Rule 5(5) are contradictory and the said issue is left open.
32. In **Shakuntala Sharma** (supra) it was held that even if the validity of a Rule is not challenged, that fact by itself would not validate the Rule if it suffers from an inherent infirmity. The said decision cannot come to the aid of the writ petitioners in the case on hand as the transfer order was not passed under Rule 4(1)(b) of the 2015 Rules as observed hereinbefore.

33. This Court has to now consider whether SSC was justified in issuing the order recommending the transfer of the teacher under Rule 4(1)(c) of the 2015 Rules.
34. The Hon'ble Supreme Court by an order dated 22.01.2016 directed the SSC to take decision in accordance with the rules in force i.e., 2015 Rules. Admittedly the teacher had applied for transfer on special ground under Rule 4 of the 2015 Rules. After going through the application for transfer it appears that the teacher sought to invoke Rule 4(1)(c) of the 2015 Rules. The said Rule states that teachers or non-teaching staffs serving in aided/sponsored schools where the serving places of the spouses are away beyond 50 Kms may apply for transfer. It is not in dispute that the teacher while submitting the application for transfer under Rule 4(1)(c) did not obtain "No Objection Certificate" from the Head of the institution, Secretary of Managing Committee or the Administrator, as the case may be, of the concerned school.
35. Mr. Sanyal contended that No Objection Certificate is not a mandatory requirement as per the Rules.
36. Rule 3 of the 2015 Rules deal with primary condition of general transfer. Rule 4 deals with general transfer on special ground and Rule 5 deals with eligibility for general transfer. The Hon'ble Division Bench in **Mapita Samaddar** (supra) held that Rule 5 applies to all teachers seeking transfer including teachers seeking transfer on such grounds. The Hon'ble Division Bench in **Mapita Samaddar** (supra) held thus-

"20. A conjoint reading of Rules 3 (Primary Condition of General Transfer), 4 (General Transfer on Special Ground), 5 (Eligibility for General Transfer), 6 [Procedure for submission of application for General Transfer in respect of a teacher under rule 3 and 4(1)(c)], 7 [Procedure for General Transfer on Special Ground under rule 4(1)(a) and rule 4(1)(b)] and 14 (Non-compliance of these rules by School Managing Committee or Administrator of the school concerned, as the case may be) results in manifestation of the scheme of transfer of teachers. Reading such rules one after the other, we are of the firm opinion that while rule 3 provides for the basic conditions one seeking

transfer is required to fulfill, certain special conditions are also carved out and incorporated in rule 4. A teacher fulfilling the basic conditions, as of right, may apply for and claim consideration of his/her prayer for transfer in accordance with the Transfer Rules; but it is not quite the other way round. Fulfillment of the special conditions, in a given case, without fulfillment of the basic conditions would not authorize issuance of a transfer even on special ground. The situation is clarified by rule 5, which applies to all teachers seeking transfer including teachers seeking transfer on special grounds.”

37. As the prayer for transfer made by the teacher was under Rule 4(1)(c) of the 2015 Rules, in view of the aforesaid decision of the Hon’ble Division Bench, the provisions laid down under Rule 5 of the 2015 Rules shall apply in a case of such transfer.
38. Rule 5(5) states that the general transfer shall be allowed to an incumbent against whom no judicial or disciplinary proceeding is pending or contemplated, who is not under suspension. Rule 5(6) states that school authority of a particular school shall not forward applications received from more than 10% (rounded up to next higher digit) of total number of teachers of all school and priority shall be given first to the teachers senior in age. Rule 6 (3) of the 2015 Rules imposes a restriction in the issuance of No Objection Certificate by providing that the No Objection Certificate will not exceed the number as stated under Rule 5(6) of the 2015 Rules. Rule 6(4) of the 2015 Rules stipulate that the applications shall be submitted to the concerned District Inspector of Schools through the Head of the institution or Secretary, Managing Committee or the Administrator as the case may be of the concerned school. The school authority has an important role to play as per the 2015 Rules with regard to the issue of eligibility for general transfer of an applicant as per Rule 5 of the 2015 Rules. The Hon’ble Division Bench in **Mapita Samaddar** (supra) held that unless the procedures laid down in 2015 Rules are followed, the ground work for ordering a general transfer on special ground is not available. This Court, therefore, holds that No Objection Certificate is a mandatory requirement for submission of

application for general transfer on special ground in respect of a teacher under Rule 4(1)(c) of the 2015 Rules.

39. It is not in dispute that at the relevant point of time i.e., when the teacher applied for transfer in terms of Rule 4(1)(c) of the 2015 Rules, criminal proceeding was pending against the teacher. The said criminal case was also pending at the point of time when the order of the Hon'ble Supreme Court was passed and also at the point of time when the order of transfer was passed by SSC. It is also not in dispute that the petitioner while submitting the application for general transfer on special ground did not obtain the "No Objection Certificate" from the Head of the institution, Secretary of the Managing Committee or the Administrator as the case may be, of the concerned school.
40. This Court, therefore, holds that the teacher was not eligible to apply for general transfer on special ground at the relevant point of time due to pendency of criminal case against her. That apart the application for general transfer could not have been processed in view of non-submission of the No Objection Certificate which has already been held hereinbefore to be a mandatory requirement. To the mind of this Court, there was no foundational basis for recommending the transfer of the teacher.
41. That the Kankartala Police Station 16.02.2012 under Section 323/326/506/308 of the Indian Penal Code and the chargesheet no. 80/2012 dated 17.10.2012 under Section 341/323 of the Indian Penal Code was subsequently quashed by a judgment dated 10.07.2019 in CRR 3679 of 2016 is not a relevant fact in deciding the issue as to whether the petitioner was eligible for transfer at the relevant point of time. To the mind of this Court, the issue of eligibility of a teacher to be transferred in terms of the 2015 Rules, has to be decided on the facts existing at the time of submission of the application as well as that existing at the time of consideration of such application. Quashing of the criminal proceeding

and the chargesheet after the transfer order was issued may give rise to a fresh cause of action to a teacher to apply for transfer but the same cannot be a relevant fact while deciding the propriety of the transfer order passed on 30.03.2016.

42. 2015 Rules contains exhaustive provisions relating to transfer of teaching and non-teaching staff. It is a code by itself. The eligibility criteria, the procedure for submission of application, the grounds on which a prayer for transfer can be made, the authority competent to make recommendation for transfer etc. have been laid down therein. The authority vested with the power to make recommendation for transfer has to consider the prayer for transfer in accordance with the 2015 Rules.
43. In the case on hand, the recommendation for transfer is made on the basis of an application submitted by the teacher. The said order was passed invoking a provision of the 2015 Rules in the light of the observations made by the Hon'ble Division Bench as clarified by the order of the Hon'ble Supreme Court of India. Under such circumstances, this Court holds that the order of the Competent Authority recommending the transfer must disclose the relevant factors that were taken into consideration while issuing such order. The said order recommending transfer does not also return any finding with regard to the eligibility of the teacher to apply for transfer; compliance of mandatory requirements as per the 2015 Rules or whether and how the grounds for transfer has been satisfied.
44. The Chairman, SSC, in order dated 30.03.2016, only stated that the recommendation is issued in compliance with the order passed by the Hon'ble Supreme Court and the Hon'ble Division Bench of the Calcutta High Court. This Court, therefore, holds that the authority vested with the power to recommend transfer failed to perform its duty vested upon him by the 2015 Rules.

45. The issue that fell for consideration in the case of **Ram Pratap** (supra) was when the legislature has not put any fetters nor laid down any conditions or principles on the basis of which the government is required to transfer an employee whether in such a case the transfer order should be a speaking order. While deciding the said issue it was held that transfer order need not be a speaking order. The said decision is not an authority for the proposition that a transfer order passed in terms of a Rule containing exhaustive provisions as observed hereinbefore, a speaking order cannot be insisted upon in such a case.
46. In **Ram Deen** (supra) the applicant obtained No Objection Certificate from her parent college and also from the college where she intended to be transferred. The said decision being distinguishable on facts do not have any manner of application to the case on hand.
47. There is no quarrel to the proposition of law laid down in **Shilpi Bose & ors.** (supra) and **Union or India & ors. vs. S.L. Abbas** (supra) that the Court should not interfere with a transfer order which is made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. In case on hand the transfer order was issued in violation of the statutory rule requiring no objection certificate from the Head of the institution of the parent school as well as non consideration of the effect of pendency of a criminal case at the relevant point of time. The said decisions, therefore, do not come to the aid of the writ petitioner.
48. This Court is, therefore, of the considered view that the order dated 30.03.2016 is devoid of any reasons and the same is liable to be set aside and quashed. For the reasons as stated hereinbefore the order of the Chairman, SSC dated 30.03.2016 recommending transfer of the teacher to the transferee school is set aside and quashed.
49. The other writ petitions filed by the teacher are for implementation of the order of transfer seeking various reliefs pursuant to the order of transfer

dated 30.03.2016. Since the said order has already been set aside by this Court nothing survives to be decided in the said writ petitions.

50. Under normal circumstances after setting aside the order dated 30.03.2016 this Court would have directed the Chairman, SSC to decide the issue with regard to transfer afresh. However, taking note of the fact that the District Inspector of Schools by a memo dated 20.09.2021 declared the post of Assistant Teacher in Barhra High School vacant on account of resignation of the teacher due to her long absence, no fruitful purpose will be served by passing a direction upon the Chairman, SSC to decide the issue of transfer on such ground afresh at this stage.
51. For the reasons as aforesaid WPA 18505 of 2016 stands allowed. WPA 10552 of 2016, WPA 20005 of 2016 and WPA 30719 of 2016 stands dismissed. This order shall, however, not preclude the teacher from applying for transfer afresh in terms of the relevant rules in case the teacher succeeds in her challenge against the order declaring the post of Assistant Teacher in the school held by her vacant on account of her resignation due to long absence.
52. There shall be, however, no order as to costs.
53. Urgent photostat certified copies, if applied for, be supplied to the parties upon compliance of all formalities.

(HIRANMAY BHATTACHARYYA, J.)