

23
06.08.2024
Ct. No. 18
adeb

W.P.A. 22589 of 2022

**Prasanta Sannigrahi
Vs.
The State of West Bengal & Ors.**

Mr. Pampa Dey (Dhabal)
Mr. Biswarup Chatterjee
Mr. Krishna Deo Das
...for the petitioner

Mr. Supriyo Chattopadhyay
Ms. Sayantanee Bhattacharjee
...for the State

Writ petition is finally heard in presence of the learned advocates representing the petitioner and the State-respondents.

In the writ petition a memo dated 14th September, 2022 issued by the District Inspector of Schools (SE) Bankura being respondent no. 6 is questioned whereby service of the petitioner was directed to be utilized at Kangsabati Sishu Vidyalaya District-Bankura though petitioner is a permanent assistant teacher of higher secondary section in Loupara High School District-Bankura.

Learned advocate representing the petitioner submits while questioning the decision of the respondent no. 6 as contained in the memo dated 14th September, 2022 that there is no such provision which confers power upon the State authorities to utilize service of the

petitioner in another school though the petitioner would draw monthly salary from his parent school i.e. Loupara High School. It is also submitted that there is no concept of placement of service of an assistant teacher working in one school in another school for utilization of his service notwithstanding poor pupil-teacher ratio in the parent school. Therefore, according to the petitioner the impugned memo dated 14th September, 2022 is not tenable.

State-respondents are represented by Mr. Supriyo Chattopadhyay, learned Additional Government Pleader who submits on instruction that two teachers both were working in Loupara High School were directed to function in Kangsabati Sishu Vidyalaya due to poor pupil-teacher ratio in their parent school on service placement basis. Out of these two teachers including the petitioner one Chinmoy Patra has already been working in Kangsabati Sishu Vidyalaya but till date petitioner has refused to render service in Kangsabati Sishu Vidyalaya.

It is candidly submitted on behalf of the State-respondents that there is no such provisions conferring power upon the State authorities to place service of the teachers in other schools based on poor pupil-teacher ratio but at the same time it is also submitted that the ground reality in Loupara High School is there is no student in higher secondary section which led the State authorities to take such decision for utilization of service

of the petitioner in another school i.e. Kangsabati Sishu Vidyalaya.

In addition thereto, notice of this Court has been drawn to a memo dated 22nd August, 2022 issued by the Commissioner of School Education, West Bengal addressed to the District Inspectors of Schools in the State of West Bengal wherein in connection with pending Public Interest Litigation being **WPA 10184 of 2020 (Sandip Konar Vs. The State of West Bengal & Ors.)** the State authorities were required to file affidavit-in-reply to the rejoinder of the petitioner in the Public Interest Litigation and in connection therewith proposals were made by the District Inspectors of Schools (SE) for utilization of service of teachers on service placement basis in those schools where pupil-teacher ratio is adverse.

It has been submitted by the learned advocate representing the State-respondents that apart from this memo dated 22nd August, 2022 there is no other material from which the respondent no. 6 can derive power to place service of the petitioner in other schools but to draw salary from the parent school. It is further contended on behalf of the State-respondents that it is a mere effort to utilize the service of those assistant teachers who are working in schools where pupil-teacher ratio is favourable in order to augment the teaching

strength in those schools where pupil-teacher ratio is poor.

Having considered the submissions made on behalf of the parties this Court finds that referring to the memo dated 22nd August, 2022 issued by the Commissioner of School Education, West Bengal the respondent no. 6 is not empowered to place the service of the petitioner in another school but to draw salary from his parent school unless there is specific direction by the Hon'ble Division Bench in connection with the pending Public Interest Litigation, **Sandip Konar** (supra).

During course of hearing apart from memo dated 22nd August, 2022 no other material is produced from where it can be ascertained that the respondent no. 6 has been conferred with the power to make such arrangement.

However, while deciding the issue on facts this Court cannot shut its eyes to the glaring facts that the school where petitioner is presently working has not a single student in higher secondary section and the teacher is working in the said higher secondary section. Therefore, it is felt that apart from taking some classes in normal section the petitioner has no work relating to imparting lessons to students in higher secondary section. When the learned advocate is posed with a query that if the petitioner is permitted to function as assistant teacher in his parent school whether service of the petitioner can be

appropriately utilized for other purposes. On instruction Ms. Pampa Dey (Dhabal) submits that if the respondent no. 6 finds it proper the service of the petitioner can also be utilized in other neighbouring schools for effecting local arrangements which would facilitate transfer of teachers from those schools in terms of the Government notification dated 3rd January, 2022 being No. 09-SE

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In view of the aforesaid legal position and since no order of the Hon'ble Division Bench has been placed to satisfy the query of the Court whether the respondent no. 6 is empowered to make such arrangement by issuing impugned memo dated 14th September, 2022, the decision of the respondent no. 6 as contained in the said memo dated 14th September, 2022 stands set aside to the extent of the petitioner only. However, this order shall not govern the case of another assistant teacher namely Chinmoy Patra who has already been functioning in Kangsabati Sishu Vidyalaya.

In view of the submissions made on instruction on behalf of the petitioner regarding utilization of service of the petitioner in the neighbouring schools for making local arrangement in order to facilitate transfer of teachers from those schools, the respondent no. 6 shall be at liberty to take steps accordingly keeping note of the submissions made before this Court on behalf of the petitioner for ensuring local arrangement as

contemplated under the aforesaid notification dated 3rd January, 2022.

Copy of the memo dated 22nd August, 2022 is kept with the record.

Writ petition stands disposed of.

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.)