

Ml- 07.08.2024
67 Ct.18
rkd

W.P.A. 22661 of 2022

Ananya Datta

-vs-

The State of West Bengal & Ors.

Mr. Sambuddha Dutta,
Mr. shamit Dutta

....for the petitioner.

Mr. Suman Dey

....for the State.

Dr. Sutanu Kumar Patra,
Ms. Supriya Dubey

....for the WBCSSC.

Affidavit-of-service filed on behalf of the
petitioner is taken on record.

The matter relates to general transfer of the
petitioner on the ground of distance.

Petitioner submits notwithstanding poor
teaching strength in the school which is a junior
high having four units, transfer application of the
petitioner needs to be considered on applying the
Government notification dated 3rd January, 2022
being No. 10-SE

SE/S/IS-04/95 (Pt III).

The learned advocate for the petitioner
submits that the school authority is not authorized
to reject the transfer application of the petitioner as
it appears from page 34 of the writ petition and the
issue needs to be decided by the concerned District
Inspector of Schools (SE) in the light of the
aforesaid notification dated 3rd January, 2022.

Thought the school authority is not represented but the concerned District Inspector of Schools (SE) and the West Bengal Central School Service Commission are represented by learned advocates.

It has been submitted by the learned advocate representing the State respondents that since the school is junior high having four units at least the school should be manned by four teachers. However, at present there are two Assistant Teachers working in the school and if the petitioner is transferred the said school is left with one teacher against four units.

It is hardly possible for a single teacher to run a junior high school. Therefore, prayer of the petitioner seeking transfer is opposed by the learned advocate representing the State respondents.

On perusal of the notification dated 3rd January, 2022 it appears that for dealing with the applications for transfer of teachers working in schools where teaching strength is five or less than five administratively, guidelines have been framed in the said notification.

It has been specifically provided in the said notification dated 3rd January, 2022 that a teacher

working in a school having teaching strength of five or less than five may be transferred provided that the said teacher is in dire need of transfer but due to bar beyond 10% of the existing teaching strength which is applicable in case of transfer, the transfer application cannot be considered.

In the case which is at my hand the petitioner has made application for transfer on the ground of distance and it is not a case relating to transfer on medical ground. There is nothing on record which goes to show that the teacher is in dire need of transfer which makes the petitioner entitled to get favourable consideration of her transfer application by the concerned District Inspector of Schools (SE) when the said District Inspector of Schools would find it as "fit case". Since it is a case of transfer on the ground of distance the Court needs to strike a balance between the statutory right of the petitioner to be transferred qua academic interest of the school and its students.

This Court cannot shut its eyes to the glaring facts that the school being junior high having four units from Classes V to VIII and in the event the petitioner is transferred there will be single teacher in the school to run the four units

which is impermissible.

In view of aforesaid discussion the transfer application of the petitioner is found to be not suitable for consideration at this stage.

However, leave is granted to the petitioner to make application for transfer in future in the event teaching strength of the school is augmented.

Accordingly, the writ petition stands disposed of.

However, there shall be no order as to costs.

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

(Saugata Bhattacharyya, J.)