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**2024**  
  
Ct. No. 08  
  
ab

**MAT 1828 of 2024**  
**IA No. CAN 1 of 2024**

**Arpita Pradhan**  
**Vs.**  
**The State of West Bengal and others.**

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**Mr. Ujjal Ray,**  
**Ms. Atreya Chakraborty.**  
**... for the appellant.**

**Mr. Suman Dey,**  
**Mr. Debapriya Chatterjee.**  
**... for the State.**

**Mr. Sourav Mitra.**  
**... for the CSSC.**

The writ petitioner/appellant is a teacher in-charge of IV Class Junior High School at Purulia and applied for transfer on the medical ground and raised a grievance before the Court when the School Authority failed to forward the said application to the concerned authorities for taking decision.

Despite service of the notice, there was no representation on behalf of the School Authority, which is corroborated from the findings returned in the impugned order; but a direction was passed upon the concerned District Inspector of Schools (SE) to submit a report disclosing the fate of the said application. The report was filed, which revealed that all the four teachers in the said school have applied for transfer on medical ground. It was, thus, contended before the Single Bench that if all the four teachers are transferred from the said school, there will be no teacher to impart education to the students of the said school and the Ad hoc Committee shall face difficulty in running the said school. Taking into account the tenet and the purport of the said report, the Single Bench proceeded to dismiss the said application for transfer.

At the very outset we must record that once the statutory rules regulating the procedures and recognizing the right of the teacher to apply for transfer is framed in exercise of the legislative powers, the authorities cannot travel beyond the circumference thereof nor can adopt a whimsical approach in taking the decision.

The West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 (in short 'said Rules') is framed containing the exhaustive provisions and mechanisms in making an application for transfer and procedures to be adopted in relation thereto. Even a general and/or special ground for transfer is also enumerated therein. Rule 5(6) of the said Rules postulates that in the event more than one applications are received from the said school, it is not obligatory on the part of the School Authority to send all the applications, but shall send the application, which does not exceed ten percent of the total number of teachers of the said school and in this regard the seniority should be given a priority.

Obviously, when the total strength of the teacher is four, the ten percent would not come to a complete numerical number and in order to obviate such difficulty, the expression "rounded up to the next higher digit" in the said Rules was incorporated to make such provision workable.

We do not find any reason that the moment the applications are filed by all the teachers, not a single application should be forwarded by the School Authority. If such interpretation is accepted, it would run counter to and/or frustrate the object manifested in Rule 5(6) of the said Rules. It is to be borne in mind that mere filing an application for transfer does not invite successful consequences necessitating transfer. The authorities are within their powers to reject an application for transfer, but we do not approve the decision that since more than

one application is filed for transfer, none of such application deserved to be forwarded for consideration.

We, thus, set aside the impugned order challenged in the instant appeal. The appeal succeeds. The connected application being CAN 1 of 2024 is disposed of.

The School Authority is directed to take a conscious decision in terms of Rule 5(6) of the said Rules and shall forward the application to the concerned authorities within two weeks from the date of communication of this order and upon receive of the said application, the authorities shall take an independent decision in accordance with law.

**(Harish Tandon, J.)**

**(Prasenjit Biswas, J.)**