

**FMA 60 of 2024**  
with  
IA No. CAN 1 of 2023  
**(Mamon Pramanik Vs. The State of  
West Bengal & Ors.)**

**Mr. Shuvro Prokash Lahiri**  
**Ms. Jyotsna Roy Mukherjee**  
**Mr. Srijit Halder**  
**Mr. T. Karan**  
**Mr. S. Mitra**  
**Ms. Srijani Mukherjee**

**..... For the petitioner**

**Mr. Santanu Kumar Mitra**  
**Mr Amartya Pal**

**..... For the State**

**Mr. Kanak Kiran Bandyopadhyay**

**..... For the CSCC**

**Md. Sarwar Jahan**  
**Mr. Anisur Rahaman**  
**Mr. Sayantan Hazra**  
**Mr. Kaustav Roy**

**..... For the School Authority**

The present appeal has been preferred challenging an order dated 19<sup>th</sup> September, 2023 passed by the learned single Judge in the writ petition being WPA 18599 of 2022. The affidavit-of-service filed by the writ petitioner/appellant herein be kept on record.

Mr. Lahiri, learned advocate appearing for the writ petitioner/appellant submits that the impugned order was passed without considering the fact that the appellant resubmitted his application for transfer on 27<sup>th</sup> December, 2021 which was returned by the respondent no. 10 with a remark '*President of School Managing committee is unwilling to give NOC*'.

Drawing our attention to a notification dated 21<sup>st</sup> December, 2021 Mr. Lahiri submits that in case of

rejection of a prayer for transfer it is incumbent upon the school authorities to convey the reasons. The remark given by the respondent no. 10 is cryptic in nature.

He submits that by a judgment delivered by a coordinate Bench of this Court it has already been held that an application for transfer cannot be dismissed on the sole ground that the applicant is a single teacher.

Mr. Jahan, learned advocate appearing for the school authority submits that the appellant is the sole teacher in Philosophy subject in the Higher Secondary section and in the event the teacher is transferred, the students would be facing insurmountable inconvenience.

Mr. Bandyopadhyay, learned advocate enters appearance on behalf of the West Bengal Central School Service Commission.

Mr. Mitra, learned advocate enters appearance on behalf of the State. Let the documents, as produced, be kept on record.

Answering our query, Mr. Mitra submits that the *Utsashree* online portal has been temporarily suspended.

In reply, Mr. Lahiri submits that the guidelines towards consideration of an application for transfer of a single teacher have been detailed in the memo dated 3<sup>rd</sup> January, 2022.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Procedural law cannot defeat substantive rights and it is required to assist and aid the object of the statute. The same cannot defeat the substantive rights conferred by the statute. In view thereof, suspension of the *Utsashree* online portal could not have been a ground for rejection of the appellant's prayer. The fact that the appellant resubmitted his application for transfer on 27<sup>th</sup> December, 2021 was also not taken into consideration. An application for transfer cannot be dismissed on the sole ground that the applicant is a single teacher. The circular dated 3<sup>rd</sup> January, 2022 provides the guidelines towards consideration of an application of a single teacher.

In the said conspectus, the order impugned in the appeal and the remark of the respondent no.10 that '*President of School Managing Committee is unwilling to give NOC*' are set aside and the respondent no. 8 is directed to consider the appellant's application for transfer, in the vacancies existing on date, upon granting an opportunity of hearing to the appellant as well as the school authorities and to take a final decision and communicate the same to the appellant within a period of 8 (eight) weeks from date of communication of this order.

Needless to observe, as the operation of the *online* portal has been temporarily suspended, the appellant's application shall be considered by the said respondent no. 8 through offline mode.

It is made clear that in the event the appellant's claim deserves acceptance, all necessary follow up steps shall be taken by the respondents forthwith.

With the above observations and directions, the appeal and the connected application are disposed of.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

**(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)**