

26.02.2024  
Court No.13  
Item No.113  
AP

**WPA 28679 of 2023**

**Bhaswati Bhattacharyya  
Vs.  
The State of West Bengal and Ors.**

Mr. Bikram Banerjee  
Mr. Sudipta Dasgupta  
Mr. Arka Nandi  
Ms. Shalini Ghosh  
Ms. Sinjini Chakrabarti

... For the Petitioner.

Mr. Mrinal Kanti Ghosh  
Mr. Nilay Baran Mandal

... For the State.

Mr. Bhaskar Prasad Vaisya  
Mr. Gourav Das

... For the DPSC, South 24-Parganas/Council.

1. Affidavit of service filed in Court today is taken on record.

2. The writ petitioner applied for transfer within South 24-Paranas District from Harimul Natun F.P. School under the Baruipur Circule, South 24-Parganas to school under Sonarpur West Circle in the Naktala – Garia. The reason for such transfer is the 75% disability (Mental) of the writ petitioner's son. The writ petitioner's husband is posted in the North-East.

3. Counsel for the DPSC, South 24-Parganas opposed the application. The writ petitioner obtained a transfer from Jalpaiguri to South 24-Parganas in the year 2020. It is, therefore, stated that the writ petitioner has to wait for 5 years before applying for any transfer.

4. This Court, however, notes that the transfer from Jalpaiguri to South 24-Parganas has occurred on the basis of a circular of the State Government to post employees within their home district as a one-time measure.

5. The 5-year mandatory waiting period before seeking transfer cannot, therefore, be applied in the case of the writ petitioner on the basis of the transfer in the year 2020.

6. This Court also notes that even assuming that the 5-year period would be attracted in the case of the writ petitioner, she has applied on medical grounds of her son and has completed 4 years since after the last transfer.

7. Given the fact that the writ petitioner seeks transfer primarily on the ground of the serious medical disability of her son, this Court is inclined to direct the Chairman, DPSC, South 24-Parganas to consider the case of the writ petitioner for transfer to a school under Sonarpur West Circle in the Naktala – Garia subject to availability of vacancies.

8. Let the consideration, as directed hereinabove be effected within a period of six weeks from date.

9. The aforesaid order is passed in exercise of extraordinary powers conferred under Article 226 of the

Constitution of India and shall not be treated as a precedent.

10. With the aforesaid directions, the writ petition is disposed of.

11. There shall be no order as to costs.

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

**(Rajasekhar Mantha, J.)**