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02.02.2024
d.p.

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A 1475 of 2023

**Atasi Barman
-versus
The State of West Bengal & Ors.**

**Mr. Sudip Ghosh Chowdhury,
Mr. Gopal Roy.
...For the Petitioner.**

**Mr. Bikramaditya Ghosh,
Mr. Supriya Singh.
...For SSC.**

**Mr. Hirak Barman,
Mr. Pretom Das.
...For State.**

The application of the petitioner seeking transfer stood rejected by the District Inspector of Schools on the ground that the application exceeds 10% quota.

The District Inspector of Schools in the report filed before this Court has admitted that there are 33 teachers in the said school. If 10% quota is required to be followed then it amounts to 3.33 number of teachers who may be permitted to be transferred.

The said percentage has been mentioned allegedly in accordance with the notification no. 159-SE/S/1S-4/95 (part) dated 27th February, 2015 published in the Kolkata Gazette Extraordinary by the School Education Department, Secondary branch on 11th March, 2015.

Rule 5(6) of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 mentions that the school authority of a particular school will not forward applications received from more than 10% (rounded up to next higher digit) of total number of teachers of that school. Priority shall be given first to the teacher senior in age.

Though the said Rule mentions about 10% of the total number of teachers in the school but at the same time the Rule specifies that 10% is to be rounded up to the next higher digit; that is, if there is a fraction in calculating the total number of teachers, then the figure has to be rounded up to the next higher digit.

In the instant case there are 33 number of teachers in the school. 10% of the total teachers strength, being rounded up to the next higher digit, would amount to four teachers who may be permitted to be transferred. The affidavit of the respondent discloses that only three teachers have applied for transfer from the said school. The same means that there is still chance of transfer for a further teacher from the said school. As such there appears to be no impediment on the part of the respondents in processing the application of the petitioner seeking transfer.

In view of the above, the reason mentioned for not forwarding the application filed by the petitioner seeking transfer appears to be erroneous. The same is liable to be set aside and is, accordingly, set aside.

The District Inspector of Schools is directed to take immediate steps for forwarding the application

filed by the petitioner seeking transfer to the Commission for taking necessary action.

Steps shall be taken in the matter at the earliest but positively within a period of two weeks from the date of communication of this order. Consequent steps shall be taken by the Commission immediately thereafter.

The writ petition stands disposed of.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)