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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 2715/2024**
STATE OF WEST BENGAL

..... Petitioner

Through: Ms. Madhumita Bhattacharjee,
Advocate with Ms. Nitipriya,
Advocate.

versus

SONIKA KUMARI & ANR.

..... Respondents

Through: Ms. Arunima Dwivedi, CGSC with
Mr. Chetanya Puri, Ms. Pinky Pawar
and Mr. Akash Pathak, Advocates.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

23.02.2024

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CM APPL. 11074-75/2024 -Ex.

1. Exemption allowed, subject to all just exceptions.
2. The applications stand disposed of.

W.P.(C) 2715/2024 & CM APPL. 11073/2024 (Stay)

3. The present writ petition under Articles 226 and 227 of the Constitution of India seeks to assail the order dated 19.12.2023 passed by the learned Central Administrative Tribunal in O. A. 2572/2023. Vide the impugned order, the learned Tribunal has directed the petitioner to grant NOC to the respondent no. 1 who is an IAS officer of 2022 Batch and has been allotted the West Bengal Cadre, so that her cadre can be changed from West Bengal to Rajasthan on account of her husband belonging to the Rajasthan Cadre.
4. Learned counsel for the petitioner submits that even though



Rule 5 (2) of the IAS (Cadre) Rules, 1954 entitles an officer to seek change of cadre on the ground of marriage, there is no reason as to why instead of the respondent no. 1 seeking change of her cadre, her husband could not have sought change of his cadre as the petitioner/State of West Bengal is willing to accommodate the husband of respondent no. 1 in West Bengal as well. We are not impressed with this plea of the petitioner as we find that the rule gives the option to the concerned officer to seek change of cadre and, therefore, it is not open for the petitioner to insist that instead of the respondent no. 1, her husband should have sought change in cadre.

5. At this stage, learned counsel for the petitioner submits that the ambit of Rule (5) 2 is under consideration of the Apex Court in SLP (C) 15914/2021. She, therefore, prays that it may be made clear that the grant of NOC in favour of the respondent no. 1 would remain subject to outcome of the aforesaid SLP.

6. Having perused the order dated 22.03.2022 passed in SLP (C) 15914/2021, we find that even though Rule 5 (2) is being considered by the Apex Court, the directions issued to the petitioner/State in the said matter for granting of NOC in favour of the respondent therein, have not been interfered.

7. In the light of the aforesaid, we dismiss the petition along with all pending applications by directing the petitioner to grant within one week, the requisite NOC in favour of the respondent no. 1 in terms of the impugned order. It is, however, made clear that the grant of this NOC in favour of the respondent no. 1 will remain subject to the outcome of SLP (C) 15914/2021. Learned counsel for the respondent



no. 1 has no objection to the course of action.

REKHA PALLI, J

RAJNISH BHATNAGAR, J

FEBRUARY 23, 2024/p