

4  
28.08.2025  
Ct. No. 11  
rrc

**MAT 8 of 2025**  
**with**  
**IA No. CAN 1 of 2025**  
**and**  
**IA No. CAN 2 of 2025**  
(Pratima Acharya Vs. The State of West Bengal & Ors.)

**Mr. Shuvro Prokash Lahiri**  
**Mr. Rajesh Naskar**  
**Mr. Ankan Mondal**

**.... For the appellant**

**Mr. Sima Adhikari**  
**Ms. Kakali Naskar**

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

**Mr. Kanak Kiran Bandyopadhyay**  
**..... For the WBCSSC**

Affidavit-of-service, as filed, be kept on record. In spite of service no one appears on behalf of the school authorities being the respondent nos. 6 to 8.

As we have invited the parties to argue on merits of the matter, the delay in filing the appeal is condoned and the application for condonation of delay being, IA No. CAN 1 of 2025 is disposed of.

The present appeal has been preferred challenging an order dated 15<sup>th</sup> July, 2024 passed by the learned single Judge in a writ petition being, WPA 18394 of 2022.

Mr. Lahiri, learned advocate appearing for the appellant submits that the appellant initially applied for transfer on medical ground *online* upon uploading the application on 8<sup>th</sup> November, 2021 in the *Utsashree Portal* but the same was returned by the school managing

committee (hereinafter referred to as SMC) on the ground that as there are insufficient teachers, her application cannot be considered. Challenging such rejection, the writ petition was filed. The learned single Judge, however, rejected the appellant's claim being oblivious of the admitted fact that the appellant's application for transfer was on medical ground and not on the ground of distance.

Drawing our attention to the amendment incorporated in the West Bengal School Service Commission (General Transfer) Rules, 2013 (hereinafter referred to as the Transfer Rules) *vide* notification dated 8<sup>th</sup> September, 2021, Mr. Lahiri submits that Rule 6(2)(c) clearly provides that in case of an application on medical ground, the provisions of Rule 4(a) to (d) shall not apply and the SMC authorities are under an obligation to cause examination of the appellant '*by the doctor of the SMC*' as provided under Rule 6(2)(f). Such argument, as advanced, was glossed over by the learned single Judge and no finding was returned on the same and the writ petition was dismissed.

Mr. Lahiri, however, in his fairness, points out that as his first application dated 8<sup>th</sup> November, 2021 was illegally rejected, the appellant uploaded a further application on identical ground on 19<sup>th</sup> April, 2022 and subsequent thereto, the *Utsashree Portal* was suspended.

Drawing our attention to the proviso of Rule 6(2)(e) of the Transfer Rules, Mr. Bandyopadhyay, learned advocate appearing for the West Bengal School Service Commission submits that the issue of transfer on medical ground and the pupil-teacher ratio are inextricably bound and such application on medical ground cannot be considered in view of insufficiency of teachers. Appreciating such fact, the learned single Judge refused to exercise discretion in favour of the appellant and there is no infirmity in the order warranting interference in appeal.

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

A perusal of the order impugned would reveal that the learned single Judge has proceeded on the basis that in case of insufficiency of teachers, the appellant's application for transfer cannot be considered and the writ petition was dismissed with an observation that the order of the Court '*shall not preclude the petitioner to apply for transfer on medical ground in future when number of teaching staff in the said school would be enhanced*'. Prior to determination as to whether the disease of the appellant caused serious problem in attending the school, the appellant's application was dismissed. In our opinion, the SMC authorities without exhausting the procedure prescribed under Rule 6(2)(f) of the Transfer Rules could

not have denied consideration of the appellant's application for transfer. Such act ought to have been interfered with. In view thereof, the order impugned in the appeal is set aside.

We have been informed that the *Utsashree Portal* is presently under suspension and in view thereof, the appellant shall furnish copies of the proforma applications for transfer on medical ground along with all medical documents, as previously uploaded in the portal, to the SMC authorities within a period of 2 (two) weeks from date along with a copy of this order.

Upon receipt of the said documents, the SMC authorities shall cause to examine the appellant by the doctor, as provided under Rule 6(2)(f) of the Transfer Rules and take a decision as regards issuance of '*no objection certificate*' within 6 (six) weeks and forward the transfer application to the concerned DI (SE), as provided under Rule 6(2)(g) of the Transfer Rules.

Needless to observe, in the event, upon medical examination the appellant's case is found to be a fit case, necessary follow up steps shall be taken by the respondent nos. 3 and 4 within a period of 6 (six) weeks thereafter in strict consonance with the provisions of the Transfer Rules.

With the above observations and directions, the appeal and the connected application for stay 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.

**(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)**