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14.02.2025
Ct. No. 18
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W.P.A. 2099 of 2025

**Lopamudra Santra
Vs.
The State of West Bengal & Ors.**

Mr. Firdous Samim
Ms. Gopa Biswas
Ms. Sampriti Saha
Ms. Swati Dey

...for the petitioner

Mr. Biswabrata Basu Mallick
Mr. Tamal Taru Panda

...for the State

Mr. Sunit Kumar Roy

...for the SSC

Affidavit-of-service filed on behalf of the
petitioner is taken on record.

By presenting this writ petition challenge
has been thrown to the transfer order dated 20th
January, 2025 issued by the Secretary, West
Bengal Board of Secondary Education whereby
the petitioner being the Headmistress of
Serampore R.C. Girls High School, Hooghly is
transferred to Telenipara Bhadreswar Girls High
School, Hooghly.

Mr. Firdous Samim, learned advocate
representing the petitioner submits that while
transferring the petitioner vide aforesaid transfer
order dated 20th January, 2025 rationalization
policy as contemplated under Government

Notification dated 10th February, 2023 issued by the Principal Secretary, School Education Department has not been adhered to and any of the conditions contained in the said policy is not fulfilled in transferring the petitioner. It is further submitted that petitioner is the headmistress of her present school who ought not to have been transferred since roll strength of the present school is robust and higher than the roll strength of the school where petitioner has been transferred. According to the petitioner since none of the conditions as contained in rationalization policy as provided under notification dated 10th February, 2023 is fulfilled such transfer is *mala fide* which requires to be interdicted.

Learned advocate representing West Bengal Central School Service Commission has opposed the prayer of the petitioner on drawing attention to the memo dated 16th January, 2025 issued by the Additional Secretary to the Government of West Bengal and the recommendation memo dated 17th January, 2025 issued by the Secretary, West Bengal Central School Service Commission for transfer of the petitioner in order to demonstrate before this Court that the very purpose of taking decision to transfer the

petitioner is in the interest of education and not for rationalization of teachers as envisaged under notification dated 10th February, 2023. Therefore, according to the Commission when petitioner has been decided to be transferred in the interest of education as contemplated under Section 10C of the West Bengal School Service Commission Act, 1997 authorities are not required to find out whether the conditions contained in notification dated 10th February, 2023 relating to rationalization of teachers are fulfilled or not.

Mr. Biswabrata Basu Mallick, learned Additional Government Pleader representing the State-respondents adopts the submission made on behalf of West Bengal Central School Service Commission.

For better appreciation of the issue involved in this writ petition this Court finds it apt to quote Section 10C of the West Bengal School Service Commission Act, 1997:-

“10C. State Government to issue guidelines to the Commission-

Notwithstanding anything contained in any other law for the time being in force or in any contract to the contrary, the State Government in the interest of education or in the interest of public service for administrative reasons may direct the Commission through guidelines or general instructions to make recommendation for placing the service of any teacher including the Assistant Headmaster or the Assistant Headmistress or any non-teaching staff

from one school to another school against any sanctioned posts.”

On perusal of Section 10C it appears after non-obstante clause State Government has been conferred authority to decide transfer of any teacher in the interest of education or in the interest of public service for administrative reasons.

In the present case Additional Secretary to the Government of West Bengal vide memo dated 16th January, 2025 decided to transfer the petitioner in the interest of education not for rationalization of teachers. That being the reason as contained in memo dated 16th January, 2025 and in the recommendation memo issued by the Secretary, West Bengal Central School Service Commission dated 17th January, 2025 it has not been stipulated that for rationalization of teachers decision has been taken to transfer the petitioner. Rather it has been decided in the aforesaid memoranda that in the interest of education petitioner has been transferred.

Though reliance has been placed on the rationalization policy as provided vide notification dated 10th February, 2023 that is found to be inapplicable in the present case since rationalization of teachers is not the reason for transfer of the petitioner. Consequently the point

which has been agitated before this Court that such decision to transfer the petitioner is *mala fide* does not survive.

In the transfer order dated 20th January, 2025 issued by the Secretary, West Bengal Board of Secondary Education, it is stated that for rationalization of subject teachers in terms of notification dated 10th February, 2023 decision was taken. But on conjoint reading of memo dated 16th January, 2025 issued by the Additional Secretary to the Government of West Bengal, School Education Department and recommendation memo dated 17th January, 2025 issued by the Secretary, West Bengal Central School Service Commission it does not appear that decision to transfer the petitioner was taken for rationalization of teachers rather in the interest of education as contemplated under Section 10C of the West Bengal School Service Commission Act, 1997 such decision was taken. Section 10C has conferred power upon the State Government to direct the West Bengal Central School Service Commission to recommend for placing service of any teacher from one school to another. Based on such decision of the State Government which may be in the form of guidelines or general instructions the commission

is required to recommend for placing service of any teacher from one school to another. Therefore, authority is given to the State Government to take decision relating to transfer based on which commission needs to recommend for such transfer. West Bengal Board of Secondary Education is only authorized to issue transfer order for implementing the decision of the State Government. Therefore, memo dated 20th January, 2025 issued by the Secretary of the Board needs to be read as transfer order based on decision taken by the State Government and recommendation made by the commission. Reason for transfer needs to be ascertained from the decision taken by the State Government to place service of any teacher from one school to another. In the present case the decision has been taken by the Additional Secretary to the Government of West Bengal, School Education Department to transfer the petitioner recording reasons therein as such statements made in memo dated 20th January, 2025 by the Secretary of the Board relating to rationalization of subject teacher ought not to be given any credence.

In addition thereto, Section 10C of the West Bengal School Service Commission Act, 1997 has been declared *intra vires* by the Hon'ble Division

Bench vide judgment dated 27th July, 2023 passed on a batch of matters, one of which was WPO 3066 of 2020 (Rabin Tudu Vs. State of West Bengal & Ors.). The judgment dated 27th July, 2023 was not interfered with by the Hon'ble Supreme Court while dismissing Civil Appeals being Nos. 937-961 of 2024 in the order dated 26th September, 2024.

In view of aforesaid discussion this Court finds no reason to interfere with the decision taken by the concerned respondent authorities to transfer the petitioner from her present school to Telenipara Bhadreswar Girls High School, Hooghly.

Hence, writ petition stands dismissed.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)