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26.08.2025
Ct. No. 11
rrc

MAT 492 of 2025
with
IA No. CAN 2 of 2025
(Baisakhi Saha Vs. The State of
West Bengal & Ors.)

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

.... For the appellant

Mr. Vivekananda Bose
Mr. Raj Sekhar Basu

..... For the State

Mr. Sourav Mitra
Ms. Sreyasree Choushdury

**..... For the Central School
Service Commission**

The present appeal has been preferred challenging an order dated 9th January, 2025 passed in the writ petition being WPA 29096 of 2024 which was preferred by the writ petitioner/appellant herein, *inter alia*, praying for consideration of her application for transfer dated 22nd January, 2024. By the order impugned the learned single Judge was pleased to observe that *‘today on behalf of the State respondents nothing is placed before this court showing that the concerned District Inspector of Schools (S.E.) was able to make alternative arrangement on making available willing teacher to man the post of the petitioner. Therefore no further order can be passed on this writ petition in order to facilitate transfer of the petitioner’*.

Mr. Lahiri, learned advocate appearing for the appellant submits that the notification dated 3rd January, 2022 casts a duty upon the DI (SE) to take urgent step in a time-bound manner to search for a teacher on the same subject from nearby and make local arrangement so that the teacher of the other school attends the school wherefrom the teacher has applied for transfer on days of the week on a temporary basis till such time a permanent teacher joins. There is no provision in the notification dated 3rd January, 2022 to invite any option or choice of any other teacher to volunteer in rendering service to the school from where the appellant seeks transfer. In support of such contention reliance has been placed upon a judgment of a coordinate Bench of this Court delivered in the case of *Gokul Chandra Mallick Vs. The State of West Bengal & Others* (MAT 1218 of 2024).

Mr. Bose, learned advocate appearing for the State respondents submits that the learned single Judge has rightly observed that no willing teacher to man the post of the appellant is available, as required under the provisions of the notification dated 3rd January, 2022 and that in the absence of a willing teacher, no right accrues in favour of the appellant to be transferred.

Mr. Mitra, learned advocate appearing for the Commission submits that no allegations have been levelled against the Commission in the writ petition.

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

In the notification dated 3rd January, 2022 there is no rider that the DI (SE) has to make any endeavour to find out any willing teacher of neighbouring school, who can man the post of the appellant temporarily till the regular incumbent joins the post. The term '*willing*' does not feature in the said notification. The appellant's claim for transfer cannot be kept in abeyance till a willing teacher is found.

In view of the above, the order impugned in the present appeal is modified to the effect that the DI (SE) shall act in strict consonance with the provisions of the said notification dated 3rd January, 2022 and the observations made in this order and take expeditious steps for filling up the resultant vacancy that may arise after the appellant is transferred.

The entire exercise shall be completed by the DI (SE) being the respondent no. 5 herein preferably within a period of three months from the date of communication of this order.

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.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

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