

Item-
12. 18-06-2025

MAT 591 of 2025
CAN 2 of 2025

sg

Ct. 8

Kakali Paria
Vs.
The State of West Bengal & Ors.

Mr. Shuvro Prokash Lahiri
Mr. Rajesh Naskar
Ms. Indrani Roy

...for the appellant

Mr. Sujit Kr. Rath

...for the respondent no.10

Mr. Sunit Kr. Roy

...for the CSSC

Mr. Pinaki Dhole
Mr. Avishek Prasad

...for the State

1. The appeal is arising out of an order dated 3rd October, 2024 passed by the learned Single Judge in a writ petition in which the appellant/writ petitioner prayed for her transfer for which she made an application on Utsashree Portal on 9th August, 2022.
2. The learned Single Judge was of the view that since no willing teacher was available since the order dated 17th February, 2023, no further steps have been taken with regard to her application for transfer.
3. The appellant is a single teacher in Political Science in the school. The issue of single teacher has come up for consideration in a series of matters; one of which was *Piyali Goswami vs. State of West Bengal & Ors.* passed on 19th May, 2025 in *MAT 64 of 2025*. In paragraphs 7, 8, 9 and 10 of the said order, we have considered the argument that unless the willing teacher is available the

transfer application could not be processed. The said paragraphs read as follows:

“It appears that, on 27.10.2021 the D.I. Schools (S.E.) Bankura to the HM / TIC, Kusumbani Jamunadas Khemka High School, Bankura with a query that if a suitable teacher would be available on a temporary basis so as to facilitate the transfer of the present writ petitioner. The D.I. Schools (S.E.) Bankura has never found that it is not a fit case for transfer. However, it appears that Kusumbani Jamunadas Khemka High School, Bankura has declined the said offer and communicating a decision that teacher concerned would be unable to undertake to such travelling due to Orthopedic reason as presently advised. From the report it cannot be said that the D.I. has not made attempt to find out a suitable teacher on temporary basis to facilitate the transfer. However, the fact remains that once the petitioner is eligible for a transfer he / she cannot be denied such transfer for an indefinite period and steps are to be taken within a time bound manner as specifically mentioned in the notification itself.

In a co-ordinate Bench decision in MAT 1218 of 2024 the Hon’ble Division bench has observed that the said notification passed over a statutory duty on the D.I. of Schools of the district concerned to make an alternative arrangement within a time bound manner. The said notification does not contemplate that unless a willing teacher volunteers to join the school even on a temporary basis, the application for transfer of an eligible teacher would not be allowed at all and is dependent upon the willingness of the teacher.

In the instant case, more than four years have passed since the application has been made. However, the same time, we cannot ignore the

welfare of the students who suffered in the event the teacher is transferred without post being filled up even on a temporary basis with a fresh drive for recruitment if necessary for the said post.

On such consideration, we direct the D.I. Schools (S.E.) Bankura to acts strictly in terms of the notification dated 03.01.2022 and take immediate steps for filling up the said vacancy, if required, a fresh recruitment positively within a period of four months from date.”

4. The respondents are not disputing that the writ petitioner/appellant is not eligible for transfer but the reason for which such transfer application could not be processed is lack of availability of willing teacher. Almost three years have passed since she made an application.
5. Accordingly, we direct the District Inspector of Schools (S.E.), South 24 Parganas South, to act strictly in terms of the notification dated 3rd January, 2022 and take expeditious steps for filling up the resultant vacancies that may arise after she is transferred, positively within February 2026. The impugned order is set aside with the aforesaid direction.
6. The appeal and the applications are disposed of with the aforesaid direction.
7. Urgent Photostat certified copy of this judgment, if applied for, be submitted to the parties upon compliance of all requisite formalities.

(Soumen Sen, J.)

(Smita Das De, J.)