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05.08.2025
Ct. No. 11
rrc

FMA 945 of 2025
With
IA No. CAN 1 of 2025

(Piu Patra Vs. The State of
West Bengal & Ors.)

Mr. Sakti Pada Jana
Mr. Subhajyoti Das

.... For the appellant

Mr. Pinaki Dhole
Mr. Sayan Datta

..... For the State respondents

Mr. Sunit Kr. Roy
Ms. Susmita Mondal

Ms. Koyeli Bhattacharyya

..... For the WBBSE

Affidavit-of-service, as filed, be kept on record.

The present appeal has been preferred challenging an order dated 3rd April, 2025 passed by the learned single Judge in a writ petition being WPA 1314 of 2024 which was preferred by the writ petitioner/appellant herein, primarily praying for the following relief:-

‘A writ in the nature of Mandamus commanding the Respondents their men, agents, assigns and subordinates to reconsider the petitioner’s application for transfer as per the Rules and grant the same by recommending or re-recommending her for transfer to any school nearest to her residence at Village – Bankati, Post Office – Bankati, District Bankura preferably to Ghosergram Anchalik Vidyapith, Bankura or Shibdas Central Girls High School, Bishnupur, District Bankura against the vacancy of Assistant Teacher in English.’

Mr. Jana, learned advocate appearing for the appellant submits that the appellant is suffering from serious gynecological disorder. She submitted an application for transfer on medical ground way back in the year 2022 exercising option for transfer to any one of the three schools, as would be explicit from page-43 of the application for appropriate order. As such representation was not considered, she was constrained to prefer a writ petition being WPA 19775 of 2022 but the same was dismissed by an order dated 4th January, 2023. Aggrieved thereby, she preferred an appeal being MAT 506 of 2023 which was ultimately disposed of by an order dated 3rd August, 2023 directing the Secretary of the Commission to reconsider her application for transfer on medical ground by extending the benefit of amended Rule 6(4)(d) of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 (hereinafter referred to as the 2015 Rules). Pursuant to such direction, the appellant was asked to attend the office of the Commission on 8th September, 2023 and on that date, she was asked to choose from amongst three schools which were not the schools she opted for. Aggrieved thereby, the appellant preferred the writ petition.

He argues that in course of hearing of the earlier writ petition being WPA 19775 of 2022, a report in the

form of an affidavit was filed by the Commission stating that there are no vacancies in the schools opted by the appellant. Though the appellant submitted a fresh representation dated 14th October, 2022 prior to disposal of the writ petition specifying the names of three other schools in which she may be transferred, the same was not taken into consideration in spite of the direction contained in paragraph 9 of the order dated 3rd August, 2023 passed in MAT 506 of 2023. Being oblivious of such sequence of the facts, the learned single Judge dismissed the writ petition by a cryptic order.

He submits that from the documents annexed to the present application for appropriate order at pages 68 to 70, it would be explicit that there are existing vacancies at Ghosergram Anchalik Vidyapith and also at Bishnupur Parimaldevi Girls High School. The Commission illegally placed her in another school which is about 50 kms away from her residence. She would be facing insurmountable inconvenience to attend the said school moreso when she is suffering from serious ailments. The learned single Judge glossed over the said issue and did not return any finding on the same. Such infirmity warrants interference of this Court moreso when is similar facts and circumstances, a co-ordinate Bench of this Court in an appeal being MAT 8 of 2022 directed the Commission to recommend the appellant therein as per the option exercised by him.

Mr. Roy, learned advocate appearing for the Commission, however, denies and disputes the contention of Mr. Jana and submits that the Commission has acted in strict consonance with the order passed in MAT 506 of 2023 and had recommended the appellant to Durgapur Rai Rani Devi Girls High School *vide* memo dated 3rd October, 2023 and pursuant to such recommendation, the appellant had already joined the said school. There is no provision towards submission of any second option and in the event the vacancies in the opted schools are filled up, the Commission as per the Rules can only consider transfer in a school nearby to the opted schools. Accordingly, the Commission had recommended the appellant in a school within the sub-division, as opted earlier by the appellant. In view thereof, the learned single Judge rightly refused to exercise discretion in favour of the appellant and there is no infirmity in the said order.

Mr. Dhole, learned advocate enters appearance on behalf of the State respondents.

Ms. Bhattacharyya, learned advocate appearing for the Board and its functionaries submits that no allegations have been levelled against the said respondents.

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

The amended Rule 6(4)(d) of the 2015 Rules runs as follows:-

‘6(4)(d). In case of application for transfer in the category of rule 4(a) to (d) by a teacher of a particular subject to a school which is already having sufficient or excess teacher in that subject, Central Commission shall not consider the application for transfer to opted school. In the event when all options exercised are not found suitable, the incumbent may be considered for transfer to a school (having requirement of that subject teacher) nearby to opted school(s).’

The Hon’ble Appeal Court in the earlier round of litigation disposed of the appeal by an order dated 3rd August, 2023 directing, *inter alia*, as follows:-

‘The Secretary of the Commission is directed to reconsider the application for transfer on medical ground by extending the benefit of amended Rule 6(4)(d) of the said Rule within three weeks from date of communication of this order.’

It appears that on the basis of such direction of the Hon’ble Appeal Court, the letter of recommendation was issued by the Commission and we have been informed that the appellant had already joined the said school. The argument of Mr. Jana that the Commission ought to have taken into consideration the schools mentioned in the representation dated 14th October, 2022 is not acceptable to this Court since such issue was neither urged in the writ petition being WPA 19775 of 2022 nor in the appeal being MAT 506 of 2023 moreso when there is also no provision under the 2015 Rules towards acceptance of any second option. The order passed in the appeal being MAT 8 of 2022, upon which reliance has been placed by

Mr. Jana, is distinguishable on facts. Furthermore, it appears from the initial option exercised by the appellant that one of the schools for which she opted was within the sub-division of Durgapur. In terms of the order of the Hon'ble Appeal Court in MAT 506 of 2023, the appellant was recommended in a school which is within the sub-division of Durgapur. Such recommendation appears to have been issued strictly in consonance with the provisions of Rule 6(4)(d) of the 2015 Rules and the appellant has also joined the said school. In the said conspectus, we do not find any infirmity in the order impugned.

Accordingly, the appeal and the connected application are dismissed.

There shall, however, be no order as to costs.

Needless to observe, the dismissal of the present appeal shall not prevent the appellant from submitting any application for transfer on medical ground from her present school, if so advised and in accordance with law.

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.)