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25.08.2025
Ct. No. 11
rrc

MAT 1111 of 2025
with
IA No. CAN 2 of 2025
(Atri Sengupta Vs. The State of
West Bengal & Ors.)

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

.... For the appellant

Mr. Sirsanya Bandopadhyay, Sr. Stng. ConsL.
Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee

..... For the State

Mr. Sunit Kr. Roy

..... For the SSC

Ms. Koyeli Bhattacharyya

..... For the WBBSE

The present appeal has been preferred challenging an order dated 10th January, 2025 passed in the writ petition being WPA 22368 of 2023 which was preferred by the writ petitioner/appellant herein, *inter alia*, praying for issuance of necessary direction upon the respondents to consider her application for transfer dated 6th July, 2022. During pendency of the writ petition, a memo dated 13th August, 2024 was issued by the respondent no. 6 requesting all heads of the schools under Nandigram-II Block to send the name of a willing teacher, who can man the post of the appellant for ensuring local arrangement in the schools in terms of the notification dated 3rd January, 2022.

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 and that as such the learned single Judge erred in law in observing that *‘in the event a willing teacher is found who can man the post of the petitioner steps shall be taken by the concerned District Inspector of Schools (SE) to transfer the petitioner based on her transfer application dated 6th July, 2022’*. 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. Chattopadhyay, learned advocate appearing for the State respondents submits that the learned single Judge has rightly directed that in the event a willing teacher is found who can man the post of the appellant, steps shall be taken by the respondent no. 6 to transfer the appellant.

Mr. Roy, 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.

Accordingly, the memo dated 13th August, 2024 is set aside and 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. 6 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.)