

29.08.2025
rpan/02

MAT 1153 of 2025

+

IA No.: CAN 1 of 2025 [Sec. 5]

+

IA No.: CAN 2 of 2025 [Stay]

Mihir Kayal

- Versus -

The State of West Bengal & Others

Mr. Shuvro Prokash Lahiri,

Mr. Rajesh Naskar,

Mr. Ankan Mondal

... for the Appellant.

Mr. Amitabrata Ray,

Mr. Sudipto Panda,

Mr. Shibsish Banerjee

... for the State/Respondents.

Dr. Sutanu Patra,

Ms. Supriya Dubey

... for the WBCSSC.

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

The present appeal has been preferred challenging an order dated 7th August, 2024 passed by the learned single Judge in the writ petition, being WPA 22544 of 2022.

As we have invited the learned advocates appearing for the respective parties to advance their arguments on merits of the matter, the delay in filing the present appeal is condoned and the application under Section 5 of the Limitation of Act, being IA No.: CAN 1 of 2025, is disposed of.

Records reveal that the appellant's application for transfer, as uploaded, was not processed by the School Managing Committee (hereinafter referred to as the

SMC) authorities and is lying with the SMC authorities. His claim for transfer was directed to be considered in terms of the notification dated 3rd January, 2022 with a rider that District Inspector of Schools, Malda being the respondent no.5 therein '*shall make an endeavour to find out a willing teacher from neighbouring school to make local arrangement....*'.

Mr. Lahiri, learned advocate appearing for the appellant/writ petitioner submits that the notification dated 3rd January, 2022 casts a duty upon the District Inspector of Schools (SE) [hereinafter referred to as 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 teachers has applied for transfer on days of the week on a temporary basis till such time a permanent teacher subject joins.

He argues that 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 a school from which the appellant seeks transfer. Reliance has been placed upon a judgment delivered in the case of *Gokul Chandra Mallick Vs. The State of West Bengal and Ors.* [MAT 1218 of 2024].

Mr. Panda, learned advocate appearing for the State/respondents submits that the learned single Judge has directed consideration of the appellant's claim in the light of the notification dated 3rd January, 2022 and there is no infirmity in the order impugned.

Dr. Patra, learned advocate appearing for the Commission submits that no allegation has 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 notification states that it would be an obligation on the part of the DI(SE) to take urgent steps in a time-bound manner to search for a teacher on the same subject from nearby schools and make local arrangement so that the teacher of the other school attends the school wherefrom the single teacher concerned has applied for transfer. The appellant's claim for transfer cannot be kept in abeyance till a willing teacher is found.

We have been informed that the *Utsashree* portal has been suspended and is not operative. In view

thereof, the appellant is directed to submit the pro forma application for transfer along with all relevant documents and a copy of this order to the SMC authorities within a period of two weeks from date.

Upon receipt of the said application and the connected documents, the SMC authorities shall forward the same to the DI (SE) being the respondent no.5 herein within a period of four weeks thereafter.

Upon receipt of the said application and the connected documents, the respondent no.5 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 preferably within a period of three months.

The order impugned in the present appeal is modified to the above extent and the appeal along with the stay application is 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.)