

N.22S1

151/CL
24.06.25
Sl-37
Ct.551
(S.R.)

WPA 18914 of 2022

Kabita Mondal

v.

The State of West Bengal & Ors.

Mr. Subhrangsu Panda
Ms. Haritri Roy
Mr. Ratul Ghosal
Mr. Rohit Adhikarifor the petitioner.

Mrs. Sanghamitra Nandi
Mr. Arun Kumar Shah ... for the State.

Affidavit of service filed by the petitioner be kept with the record.

The writ petitioner is aggrieved by the rejection of her request for transfer by the District Inspector of School (SE), North 24-Parganas on the ground that there is a single-teacher in the concerned subject in the school wherefrom the petitioner sought to be transferred.

The petitioner is an Assistant Teacher in Gangadharpur Basant Menoka Balika Vidyamandir. While in service, the petitioner applied for transfer from the said school on the ground that the distance between the petitioner's residence and school where she has been serving is almost 90 kilometers (single journey). According to the petitioner, such transfer was also necessitated by the fact that the petitioner is a mother of two young children and that, the distance between the petitioner's residence and school putting her under

tremendous difficulties in discharging her duties as a mother.

The petitioner's application was forwarded by the school authorities to the District Inspectors of School on January 29, 2022 for consideration. However, the District Inspectors of School has returned the petitioner's application to the school with the remark "*prayer is returned in cases where there is a single-teacher concerned subject*".

Mr. Panda, learned advocate appearing for the writ petitioner submits that such an order passed by the District Inspectors of School cannot be sustained. He further submits that in terms of the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 (hereafter "Rules of 2015") read with the notification dated January 3, 2022 the District Inspectors of School are obliged to undertake an exercise to arrange for a substitute teacher in the school wherefrom a teacher has applied for being transferred. In support of his submission, he relies on two recent judgments passed by the Hon'ble Division Bench of this Court. The first of such judgment has been rendered in the case of Piyali Goswami v. The State of West Bengal & Ors., (MAT 64 of 2025) decided on May 19, 2025 wherein the Hon'ble Division Bench has held as follows: -

"8. 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.

9. 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.

10. 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.”

The next judgment on which Mr. Panda places reliance was rendered by the Hon'ble Division Bench of this Court in the case of *Shyama Prasad Roy v. The State of West Bengal & Ors.*, (MAT 488 of 2025) decided on June 9, 2025. There the Hon'ble Division Bench has observed as follows: -

“6. However, there is nothing on record to show that endeavour was made for the last four years in finding out a willing teacher to join the said school on a temporary basis for filling up the resultant vacancy. There cannot be any doubt that the welfare and interest of the student are of paramount consideration, however, an application for transfer cannot be kept in abeyance unreasonably for an

indefinite period of time. The respondents are not contending that the petitioner is not eligible for transfer.

7. In such circumstances, we give the respondent six months' time to find out the teacher to fill up the resultant vacancy which is created after transfer of the appellant. The appellant within the aforesaid time or soon after the expiry of six months period should be transferred in accordance with law."

Having heard the learned advocates appearing for the respective parties and having considered the material on record, this Court is of the view that the decision of the said District Inspector of School (SE), North 24-Parganas to return the petitioner's application for transfer without undertaking the exercise mandated by the aforesaid Rules of 2015 read with the notification dated January 03, 2022 cannot be sustained.

After the exposition of the law by the Hon'ble Division Bench in the aforesaid two judgments in the case of Piyali Goswami (Supra) and Shyama Prasad Roy (Supra) there remains no scope for the District Inspector of Schools to arbitrarily withhold a teacher's application for transfer on the fragile ground of there being a single-teacher in the concerned subject. In such view of the matter, the order dated January 29, 2022 thereby rejecting the petitioner's application for transfer stands set aside.

The District Inspector of School (SE), North 24-Parganas is, therefore, directed to take up the petitioner's

application for transfer and act strictly, in accordance with the aforesaid Rules of 2015 read with the notification dated January 3, 2022 in the light of the judgments rendered by the Hon'ble Division Bench in the cases of Piyali Goswami (Supra) and Shyama Prasad Roy (Supra).

It is expected that the District Inspectors of School would complete the exercise, as mandated by the Rules, as expeditiously as possible and positively within the time frame as indicated in the aforesaid orders passed by the Hon'ble Division Bench.

With the above observations, WPA 18914 of 2022 stands disposed of.

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

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)