

17.11.2025
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MAT 1350 of 2025
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IA No.: CAN 1 of 2025
Nirmal Das
- Versus -
The State of West Bengal & Others

Mr. Ujjal Ray,
Mr. Sk. Abdur Rahim
... for the Appellant.

Mr. Swapan Kr. Datta,
Mr. Tapas Kr. Roy
... for the State/Respondents.

Mr. Kanak Kiran Bandyopadhyay
... for the WBCSSC.

Ms. Sreyashi Majumdar
... for the Respondent nos.6 & 7.

By reason of a typographical error in the cause title of the order dated 7th November, 2025, the number of the appeal has been incorporated as 'FMA 1350 of 2025' in place and stead of 'MAT 1350 of 2025'. Office is directed to effect necessary correction in the said order.

As prayed for by Mr. Ray, learned advocate appearing for the appellant, leave is granted to implead the District Inspector of Schools (S.E.), Jhargram as a party respondent in the present appeal. The learned advocate-on-record of the appellant is directed to effect necessary correction in the cause title of the memorandum of appeal and the connected application.

The present appeal has been preferred challenging an order dated 13th August, 2025 passed in WPA 13754 of 2025 by which the appellant's prayer for transfer was turned down observing *inter alia* that :

'If Court proceeds on the premise that including 2 para teachers there are 16 teachers against 1076 students, in that event pupil teacher ratio is 67:1 which does not permit transfer of the petitioner on the ground of distance. Moreover it appears that steps were taken by the concerned District Inspector of Schools (S.E.) on 16th September, 2022 whereas present writ petition is filed after three years on 20th June, 2025 and there is no plausible explanation of delay.'

Mr. Ray submits that the appellant is an Assistant teacher of History in the Baligeria S.C. High School (H.S.) [hereinafter referred to as the said school]. It would be explicit from the documents annexed at pages 45 and 46 of the application for appropriate order that the appellant's prayer was approved and forwarded by the District Inspector of Schools (S.E.), Jhargram (hereinafter referred to as the said D.I.) to the West Bengal Central School Service Commission (hereinafter referred to as the Commission)

without raising any objection as regards the pupil-teacher ratio and as such it was incumbent upon the Commission to take a decision within a period of three weeks, as provided under West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 (hereinafter referred to as the 2015 Rules). Such argument, as urged, was glossed over by the learned single Judge and without returning any finding on the said issue, the writ petition was dismissed.

He contends that the appellant cannot be penalized for the inaction on the part of the Commission to consider the appellant's representation, as forwarded by the said D.I. Such argument was also not considered by the learned single Judge. Such infirmities warrant interference in appeal.

Mr. Datta, learned Government Pleader appearing for the State/respondents placing reliance upon a notification dated 27th August, 2009 which *inter alia* provides that pupil-teacher ratio (excluding head-teacher) shall not exceed 40, argues that the appellant's claim has been rightly rejected. Let the said notification, as produced, be kept on record.

Mr. Bandyopadhyay, learned advocate appearing for the Commission submits that operation of the UTSASHREE portal in which the application was uploaded by the appellant was suspended by the competent authority. In view thereof, no decision could be uploaded in the said portal.

Ms. Majumder, learned advocate appearing for the school authorities/respondent nos.6 and 7 submits that considering the appellant's application for transfer, the managing committee of the said school adopted a resolution dated 23rd May, 2022 granting '*no objection*' to the appellant's prayer for transfer.

She further submits, upon instruction, that the managing committee of the said school has '*no objection*' in the event the appellant's application for transfer is finally considered by the Commission as there is no scarcity of history teacher in the said school.

In reply, Mr. Ray submits that by way of an amendment *vide* notification dated 29th September, 2022 the ratio as regards pupil-teacher ratio was introduced in the 2015 Rules. Prior thereto, on 23rd May, 2022, the managing committee of the said school authority upon due

consideration of the appellant's application issued '*no objection*'.

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

Records reveal that the appellant's application for transfer was forwarded through the portal to the Head of the Institution (in short, HOI) on 8th March, 2022. On 23rd May, 2022 the managing committee of the said school adopted the resolution to grant '*no objection*'. The said D.I. thereafter forwarded the appellant's application to the HOI for rectification of certain errors in the check list. The HOI thereafter upon rectification forwarded it to the said D.I. on 7th June, 2022 and on 10th June, 2022 the HOI returned it to the appellant with a remark '*As per direction of the DI (SE), Jhargram*'. Thereafter, further application was submitted by the appellant and forwarded to the HOI on 17th July, 2022 and then on 24th August, 2022 the same was ultimately forwarded by the said D.I. to the Commission on 16th September, 2022 with the remark '*approved*'.

In the said conspectus and considering the fact that the 2015 Rules of 2015 was amended subsequent to the grant of the '*no objection*' by the

school authorities pertaining to the appellant's application for transfer, we are of the opinion that the Commission ought to have taken a decision within the time specified under the 2015 Rules. It has been argued that the Commission could not take a decision and upload the same, as the portal was in suspension. However, no such intimation was given to the appellant.

In the said sequence of facts and as the appellant cannot be made to suffer for the inaction on the part of the Commission, we are of the opinion that the learned single Judge ought not to have dismissed the writ application. Accordingly, the order impugned is set aside.

We have been informed that the UTSASHREE portal is still in suspension.

In view thereof, we direct the appellant to submit a representation for transfer *offline* to the Secretary, West Bengal Central School Service Commission enclosing all relevant documents and disclosing the names of the school in which the vacancies exist within a period of four weeks from date along with the copy of this order.

Within a period of six weeks from the date of receipt of such representation, the Secretary, West Bengal Central School Service Commission shall

consider the same, upon granting an opportunity of hearing to the appellant and other interested parties and take a decision, in accordance with law and communicate the same to the appellant.

With the above observations and directions, the appeal and the connected application are disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)