

Ml 13.02.2025
105 Ct.18
rkd

W.P.A. 22272 of 2023

Sanchita Pandit

-vs-

The State of West Bengal & Ors.

Mr. Sudipt Ghosh Chowdhury,
Ms. Shreyeta Mitra,
Ms. Debalina Chakraborty

....for the petitioner.

Mr. Sourav Mitra

....for the WBCSSC.

Ms. Koyeli Bhattacharyya,
Mr. Bibek Datta,
Ms. Keya Panja

....for the WBBSE.

Mr. Shamim ul Bari,
Mr. Ranjit Rajak

....for the State.

In terms of the order dated 10th January, 2025 a report in the form of affidavit is filed today on behalf of the West Bengal Board of Secondary Education and same is taken on record.

However, report is silent whether recommendation memo dated 24th August, 2023 issued on behalf of the West Bengal Central School Service Commission for transfer of the petitioner under Section 10C of the West Bengal School Service Commission Act, 1997 can be given effect to or not since same depends upon availability of vacancy in Mahisbathan Manoj Mohan Vidyamandir, Nadia where petitioner was recommended for transfer.

It needs to be recorded herein that Section 10C

of the West Bengal School Service Commission Act, 1997 has been declared *intra vires* by the Hon'ble Division Bench by delivering judgment dated 27th July, 2023 passed on a batch of matters one of which was WPO 3066 of 2020 (*Rabin Tudu v. State of West Bengal & Ors.*) and the judgment of the Hon'ble Division Bench dated 27th July, 2023 was not interfered with by the Hon'ble Supreme Court while dismissing civil appeals being Nos. 937-961 of 2024 on 26th September, 2024. In view of the aforesaid judgment/order there is no impediment in transferring the petitioner based on recommendation memo dated 24th August, 2023.

Vide said recommendation memo dated 24th August, 2023 issued by the concerned authority of the West Bengal Central School Service Commission petitioner was recommended for transfer from Natagarh Swami Vivekananda Seva Samity for Girls, North 24 Parganas to Mahisbathan Manoj Mohan Vidyamandir, Nadia.

Since constitutionality of Section 10C has already been decided by the Hon'ble Division Bench in the judgment dated 27th July, 2023 and the same was not interfered with by the Hon'ble Supreme Court while dismissing civil appeals being Nos. 937-961 of 2024(*Secondary Teachers and Employees Association*

(SETA) and Anr. Etc. v. The State of West Bengal & Ors. Etc.) on 26th September, 2024 respondent authorities are at liberty to take steps based on recommendation memo dated 24th August, 2023 for transfer of the petitioner in accordance with law. Therefore, recommendation memo dated 24th August, 2023 survives in view of law laid down by the Hon'ble Division Bench by delivering judgment dated 27th July, 2023 and the order passed by the Hon'ble Supreme Court on 26th September, 2024.

With the above observations, the writ petition stands dismissed.

There shall be no order as to costs.

(Saugata Bhattacharyya, J.)