

12.02.2025
sayandeep
Sl. No. 37
Ct. No. 08

FMA 1378 of 2024
With
CAN 1 of 2024

Smriti Kona Dey
-Versus
The State of West Bengal & ors.

Ms. Pampa Dey (Dhabal)
Mr. Biswarup Chatterjee
.... for the appellant

Mr. Santanu Kr. Mitra
Ms. Debarati Sen
..... for the State

Ms. Koyeli Bhattacharyya
Ms. Keya Panja
Mr. Bibek Dutta
....for the WBBSE

Not only the Single Bench but the counsel representing the various authorities have proceeded on the wrong premise or on extraneous factor which does not germane from the record of the proceedings nor from the stand taken by the writ petitioner. The application for transfer filed by the petitioner, as evident from the annexure to the writ petition, was founded upon the fact that there is zero students in the school and she being passionate about teaching the students may be transferred to another school so that she can serve the society.

The single Bench proceeded on the *ipse dixit* of the submissions advanced on behalf of the School Service Commission that the appellant is a single teacher in the subject and, therefore, if the transfer is effected, it would invite the resultant effect of zero.

We are amazed by such submission for the simple reason that if the school does not have single student, what would affect the student in the event the teacher in the subject would not be there. It is an attempt to diminish the potential of a teacher whose passion in the

life is to impart education to the students and the children and, therefore, a realistic, holistic and pragmatic approach must be taken by the authorities. The application for transfer has to be routed through the Managing Committee of the school as the No Objection Certificate to be issued by them, is *sine qua non* to process the application for transfer by the authorities.

Our attention is drawn to the resolution of the Managing Committee taken in the year 2021 and 2022 that the number of students have become zero. It is the education department who has to introspect in this regard when the school has no students yet the teachers are placed in the said school without discharging their solemn duty perceived by the common people.

We, therefore, find that the approach in dealing with the writ petition filed by the writ petitioner is based upon the extraneous factor unconnected and/or unrelated with the facts so pleaded and, therefore, the order cannot be sustained.

The order impugned is thus set aside.

The school is directed to issue No Objection Certificate to the petitioner within two weeks from the date of the communication of this order and the same shall be forwarded to the competent authority for taking an appropriate decision as they may deem fit and proper.

The appeal and the connected application are disposed of.

(Harish Tandon, J.)

(Partha Sarathi Chatterjee, J.)