

W.P.A. 25967 of 2023

**Sabita Patuli
Vs.
The State of West Bengal & Ors.**

Mr. Subhajyoti Das
Ms. Sudipta Pramanik
...for the Petitioner

Mr. Manoj Kumar Mondal
..for the State

Mr. Apurba Kumar Roy (in person)
...Headmaster, Sahebnagar
High School

Affidavit of service filed on behalf of the petitioner
is taken on record.

Matter is heard in presence of the learned
advocates representing the petitioner, State
respondents and the Headmaster of Sahebnagar High
School, Nadia is present personally and makes
submission on behalf of the school authority and on his
behalf. An application was made for transfer on
Utsashree Portal on 10th August, 2022 and grievance of
the petitioner is school authority did not forward the
transfer application through portal to the concerned
District Inspector of Schools (SE) Nadia being
respondent no. 3 for processing the transfer application.

Today, Mr. Apurba Kumar Roy, Headmaster of
Sahebnagar High School is personally present and
submits that the school is reeling under shortage of

teaching strength as a result whereof transfer application of the petitioner could not be forwarded to the respondent no. 3. It is also submitted that petitioner is completely a fit person to function as assistant teacher of the school and there is no other Bengali teacher in the school who can take classes in higher secondary section.

It has already been provided in the amended Transfer Rules that when an application is made on medical ground or on the ground that the teacher is physically disabled to the extent of 40% disability shortage of teaching strength in the school cannot operate as bar in taking decision on transfer application of the petitioner. Amended Rule 6(2)(e) as contained in notification dated 8th September, 2021 contemplates dispensation of bar as provided under Rule 6(2)(c) wherein it is provided that number of subject teachers and roll strength are relevant consideration in taking decision on transfer application of the petitioner. But such embargo as provided under Rule 6(2)(c) is not a relevant consideration while taking decision on transfer application of a teacher seeking transfer on medical ground or who is suffering from disability to the extent of 40% or more.

In view of aforesaid statutory provisions Headmaster of Saheb Nagar High School being additional respondent is directed to forward the transfer

application of the petitioner by 7 (seven) days from date to the respondent no. 3 in offline mode and on receipt of such transfer application respondent no. 3 shall obtain report from the concerned Chief Medical Officer of Health by 3 (three) weeks thereafter on medical examination of the petitioner. If report of CMOH justifies transfer of the petitioner the respondent no. 3 shall forward the transfer application along with medical report to the Chairman, West Bengal Central School Service Commission by fortnight thereafter. On receipt of transfer application and medical report the Chairman shall decide the same by 4 (four) weeks thereafter in accordance with law. The decision to be taken by the Chairman shall be communicated to the petitioner by 10 (ten) days thereafter.

It is made clear that suspension of portal shall not be a ground to reject the transfer application of the petitioner.

Leave is granted to the learned advocate for the petitioner to amend the cause title by tomorrow, 11th March, 2025 and add Headmaster of Saheb Nagar High School as well as Chairman, West Bengal Central School Service Commission as additional respondent.

Writ petition stands disposed of.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Saugata Bhattacharyya, J.)