

16.05.2025.
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Ct.No.7.
as

WPA 27943 of 2022

Rajsekhar Basu
Vs.
The State of West Bengal & Ors.

Mr. Ujjal Ray,
Mr. Atreya Chakraborty,
Ms. Manishikha Mondal.

...for the Petitioners.

Mr. Santanu Kumar Mitra, Ld. Sr. Govt. Adv.,
Mr. Sudip Sarkar.

...for the State.

Mr. Sourav Mitra.

...for the Central School Service
Commission.

Mr. Pinaki Dhole,
Ms. Pranita Mandal,
Mr. Rabindra Kr. Pathak,
Ms. Srijita Mandal.

...for the Respondent Nos.7 & 8.

1. Affidavit-in-reply filed in Court today is taken on record.
2. The present writ petition has been filed challenging the decision of the school authority in refusing to recommend the petitioner's transfer and in not forwarding his request for transfer to the District Inspector of Schools concerned through the 'Utshashree' portal. In addition, the petitioner seeks a direction upon the concerned respondents to take appropriate steps to facilitate his transfer to a school located near his residence, preferably to one of the following institutions: (i) Badkulla United Academy, (ii) Santipur Municipal High School, or (iii) Chakdaha Ramlal Academy
3. Sans unnecessary details, the relevant facts leading to the filing of the present writ petition are that the petitioner

began his service career as an Assistant Teacher in Physics at Bagdah High School (HS) on 12th October, 2007. His appointment was subsequently approved with effect from 5th July, 2011. Due to the lack of direct connectivity between his residence and the school, the petitioner has been facing considerable inconvenience in attending the school. As a result, he approached the school authority with a request to recommend and forward his prayer for transfer to the District Inspector of Schools, seeking a posting at a school nearer to his residence. In furtherance of this, he also submitted the required data through the 'Utshashree' portal.

4. However, the school authority refused to forward the petitioner's prayer for transfer on the following ground:

“At present 15 posts of Assistant Teachers are vacant in the school. In the interest of the education of the students of the school the SMC decides not to issue NOC in favour of Rajsekhar Basu.”

5. Mr. Roy, learned advocate appearing for the petitioner, submits that that ground is not available to the school authority for refusing to issue a No Objection Certificate (NOC) in favour of the petitioner. He further submits that the process for dealing with transfer applications is governed by a rules framed by the State, namely, the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 (hereinafter referred to as 'the 2015 Rules').

6. He submits that the said Rule was subsequently amended. Inviting my attention to Rule 6 of the amended Rule, he submits that the only grounds available to the school authority, based on which it can refuse to forward the transfer application of a teacher, are if the resultant vacancy in the school in a particular subject becomes zero or is not commensurate with the roll strength. The school authority, while dealing with such application, was directed to consider that the total applications from the school do not exceed 10% of the total strength of teachers.

7. He submits that from the affidavit filed on behalf of the State authority, it is evident that the current roll strength of the school is 2,175. He further submits that at present, 35 students have enrolled in Physics in the Higher Secondary section of the school. He states that there are currently two teachers, including the petitioner, in the Physics department. Therefore, according to him, if the petitioner's prayer for transfer is allowed, the students of the school will not be prejudiced. In support of his contention, he has relied upon an unreported decision of the Hon'ble Division Bench of this Court in MAT 1828 of 2024, IA No. CAN 1 of 2024 (*Arpita Pradhan vs. The State of West Bengal & Ors.*).

8. Mr. Dhole, learned advocate appearing for the school authority, opposes the contention advanced by Mr. Roy. Referring to certain paragraphs of the affidavit-in-opposition filed by the school authority, he submits that due to the vacancy of five Assistant Teachers in the Science group, students of the Science stream are facing serious

difficulties. He further submits that in September 2022, five Assistant Teachers applied for transfer. Among them, four are from the Science stream, namely: Tapas Chakraborty — Assistant Teacher in Physics; Sankar Golder — Assistant Teacher in Bio-Science; the petitioner; and Ms. Moumita Ghosh — Assistant Teacher in Bio-Science. The fifth teacher is Swapan Kumar Roy — Assistant Teacher in Bengali.

9. He submits that, considering the transfer score of the Assistant Teachers in Physics, it was Tapas Chakraborty who should have been given the opportunity to have his transfer prayer recommended. However, in view of the academic interest of the students, the school authority also declined to recommend Mr. Chakraborty's transfer.

10. He submits that the school is situated in a remote area of the State, near the international border, and there is no other school in the vicinity. He argues that if transfer requests of teachers are allowed indiscriminately, the students of the locality will be deprived of access to proper education, particularly in Science subjects.

11. Mr. Mitra, learned advocate appearing for the State, adopts the submissions made by Mr. Dhole and further submits that, considering the student-teacher ratio in the Science stream, the school authority has rightly refused the petitioner's prayer for transfer.

12. Mr. Sourav Mitra, learned advocate appearing for the Central School Service Commission, submits that upon receiving a transfer application from a teacher, the school authority is required to consider various factors before making a decision to forward the application. These factors

include the teacher's age, medical condition, distance from which the teacher commutes to the school, and seniority. In light of these considerations, the school authority has rightly refused to forward the petitioner's representation for transfer.

13. Heard the learned Advocates appearing for the respective parties and perused the materials on record.

14. Although a Rule has been framed to regulate the transfer of Assistant Teachers in Secondary and Higher Secondary Schools, aiming to facilitate and bring uniformity in handling transfer matters, it cannot be stated that the right to transfer shall not have an overriding effect over the interests of the school or the students of the school. Such a right to transfer is always subordinate to the greater interest of the students who have been admitted to the school to receive proper education. It is also pertinent to note that no one has an inherent right to be transferred to a particular post or location.

15. The ground that 'at present 15 posts of Assistant Teachers are vacant in the school' may not be available to the school authority. However, the authority is empowered to consider factors such as the number of teachers and the student roll strength. If it is found that the resultant vacancy in a particular subject is zero or not commensurate with the roll strength, the school authority is prohibited from forwarding the application. The Rule also prohibits the school authority from considering transfer applications for more than 10% of the total teacher strength.

16. In the present case, it is admitted that there are 35 students in the Science stream and one Physics teacher, namely Tapas Chakraborty, who also had applied for transfer. According to the relevant factors, Mr. Chakraborty would receive preference over the petitioner. It is also acknowledged that there is no Mathematics teacher in the Science stream, and only five teachers are available in total in the Science stream.

17. Therefore, considering these factors, I am of the view that the decision of the school authority to refuse forwarding the petitioner's application cannot be considered unjustified.

18. There is no doubt about the binding effect of the decision cited by Mr. Roy. However, the decision is distinguishable on the facts and is not applicable to the present case, given its distinct circumstances.

19. In view of the above, the writ petition or its connected application, if any, is dismissed. However, this order shall not prevent the petitioner from renewing his prayer for transfer if the circumstances change and become conducive to his request.

20. There will be no order as to costs.

(Partha Sarathi Chatterjee, J.)