

14.02.2025
sayandeep
Sl. No. 30
Ct. No. 08

FMA 82 of 2025
With
CAN 1 of 2025

Achintya Podder
Vs.
The State of West Bengal & ors.

Mr. Shuvro P. Lahiri
Mr. Rajesh Naskar
Mr. Ankan Mondal

... for the appellant

Ms. Jhuma Chakraborty
Ms. Rupsha Chakraborty

.... for the State

Mr. Sunit Kumar Roy

....for the SSC

By the impugned order, the writ petition filed by the appellant was dismissed by the single Bench on the premise that if the transfer is allowed, it would impact seamless imparting of education to the students of the said school. The single Bench was swayed by the fact that there are only three teachers in the said school and it would not be possible for three teachers to manage all the units/classes at a time. At the very outset, we must record that the writ Court exercising jurisdiction under Article 226 of the Constitution of India should not usurp the power of the administrative authority nor should substitute itself into the armchair thereof and take the decisions which the administrative authorities are entrusted upon. The writ Court should exercise such powers if the challenges made to an administrative order only when the process by which such order is passed appears to be faulty, unreasonable, irrational and against the legal parameters set forth in this regard. The order of the administrative authority can also be impinged and/or interfered with by the writ Court in the event, the same is passed in contravention

to the statutory provisions as the authority cannot transgress the barriers of the statutory provisions but have to squeeze within the folds thereof.

The application filed by the appellant for transfer was necessitated by medical grounds of his spouse which was uploaded on the web portal launched by the State of West Bengal in relation to process of the application for transfer filed by the teachers or non-teaching staff in the various Government aided/sponsored schools. Because of the spate of the applications which exploded the docket of the said web portal, a conscious decision was taken by the Government to suspend the same. Mere discontinuation of the portal does not diminish the right of the teacher or non-teaching staff to apply for transfer under the statutory Rules. It was a duty of the authority to consider the said application despite the fact that the portal is discontinued and/or suspended as the application for transfer necessitated on the emergent situation cannot be kept in suspended animation for all time to come. The delay in disposal of such application operates adversely against the genuine incumbent applying for transfer and, therefore, same alacrity must be shown by the authorities on an application for transfer necessitated by medical emergency as contemplated under the statutory Rules. The decision must be left to the administrative authority who administer and manage the education system and, therefore, a self-restraint should be imposed in dealing with such cases, more particularly, when the authorities have not taken any decision in an administrative side, taking into account the various factors impacting the continuous imparting of an education in the school situated within the State.

We, therefore, do not approve the manner in which the writ application was dismissed by the trial Court. The order impugned is thus set aside.

The application filed by the petitioner shall be considered by the Commission in accordance with law and it is expected that a decision shall be taken within four weeks from the date of communication of this order.

Nothing observed hereinabove shall have any persuasive impact on the decision to be taken by the said authority who is free to take an independent decision as permissible in law.

The appeal and connected application are disposed of.

(Harish Tandon, J.)

(Partha Sarathi Chatterjee, J.)