

Form No. J(2)

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

**CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

W.P.A. 1589 of 2025

Jamiul Ali

-vs-

The Stat of West Bengal & Ors.

For the Petitioners	: Mr. Sarwar Jahan Mr. Firoz Hassan Mr. Debarshi Dhar Ms. Taniya Bhowmik
For the State	: Mr. Hirak Barman : Mr. Sourav Sarkar
For the Commission	: Mr. Sunit Kumar Roy Ms. Susmita Mondal

Heard on : 30.07.2025

Judgment on : 30.07.2025

SAUGATA BHATTACHARYYA, J.:

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

2) Petitioner made an application for transfer on the ground of distance in between present school of the petitioner and his place of residence. However petitioner was found to be single teacher in the subject in the school as a result whereof due to non-availability of willing teacher of neighbouring school who can man the post of the petitioner after his transfer, transfer application of the petitioner could not be contemporaneously considered; as such petitioner was not transferred which prompted the petitioner to approach this Court with a writ petition being WPA 2714 of 2023. Said writ petition was disposed of by a coordinate Bench vide order dated 29th November, 2023 by directing concerned District Inspector of Schools (SE), Cooch Behar being respondent no. 9 to decide prayer for transfer of the petitioner within a specified time in terms of notifications dated 22nd September, 2021 and 3rd January, 2022. It was also directed in the order dated 29th November, 2023 that respondent no. 9 shall forward the matter to West Bengal Central School Service Commission (for short, "Commission") and the Commission in its turn shall pass necessary order. Respondent no. 9 carried out exercise as required in terms of the order dated 29th November, 2023 passed by the coordinate Bench but alternative arrangement which was required to be effected in the school of the petitioner in terms of notification dated 3rd January, 2022 could not be provided since willing teacher from neighbouring school was not found. Matter was referred to the Commission and in terms of the order dated 29th November, 2023 passed by the coordinate Bench order was passed by the Secretary-in-

Charge of the Commission on 11th June, 2025. Such order dated 11th June, 2025 is questioned in this writ petition.

3) It needs to be recorded alleging violation of the order dated 29th November, 2023 passed by the coordinate Bench a contempt proceeding was drawn up by filing contempt application being CPAN 10 of 2024 which was dismissed by the coordinate Bench.

4) In order to fortify the case made out in this writ petition, reliance is placed on the order of the Hon'ble Division Bench dated 9th June, 2025 passed on an intra-court appeal being **MAT 488 of 2025 (Shyama Prasad Roy Vs. The State of West Bengal & Ors.)** and it is submitted that respondent no. 9 even after making an endeavour fails to find out willing teacher from neighbouring school for the purpose of providing alternative arrangement in terms of Government notification dated 3rd January, 2022. Concerned authority of the Commission is required to transfer the petitioner though the petitioner is a single teacher in the subject in the school.

5) It is specifically recorded in the impugned order dated 11th June, 2025 that respondent no. 9 approached nearby school for providing local arrangement in the school of the petitioner but willing teacher was not found which prevented respondent no. 9 to take necessary steps for transferring the petitioner.

6) The order was passed in **Shyama Prasad Roy** (supra) by the Hon'ble Division Bench in the context of special circumstances as delineated in paragraph 6. The Hon'ble Division Bench specifically recorded in paragraph 6 that there was nothing on record to show that endeavour was made for the last four years in finding out a

willing teacher to join the said school on a temporary basis for filling up the resultant vacancy. In the same breath, it was also observed in paragraph 6 that there cannot be any doubt that the welfare and interest of the student are of paramount consideration, however, an application for transfer cannot be kept in abeyance unreasonably for an indefinite period of time. In aforesaid special circumstances, Hon'ble Division Bench directed irrespective of filling up resultant vacancy applicant-teacher being the appellant to be transferred within a specified time.

7) However, in the present case facts are different.

8) In the present case, the coordinate Bench vide order dated 29th November, 2023 directed the respondent no. 9 to take steps in terms of notification dated 3rd January, 2022 and thereafter forward the matter to the concerned authority of the Commission for taking decision relating to transfer of the petitioner. In the impugned order dated 11th June, 2025 it has been specifically recorded that respondent no. 9 made endeavour to find out willing teacher from neighbouring school to fill up the resultant vacancy which would arise due to transfer of the petitioner. Government notification dated 3rd January, 2022 provides alternative arrangement which is required to be made in the school of the applicant-teacher in case of single teacher in the subject prior to transfer of said applicant-teacher. In the instant case, in spite of endeavour made by respondent no. 9 such arrangement could not be made due to non-availability of willing teacher from neighbouring school.

9) In this writ petition Government notification dated 3rd January, 2022 is not questioned. At the same time, academic interest of students in the school needs to be protected which was also considered by the Hon'ble Division Bench in **Shyama Prasad Roy** (supra).

10) In aforesaid conspectus, no relief can be granted to the petitioner.

11) Writ petition stands dismissed.

12) However, respondent no. 9 is directed to make further endeavour to find out willing teacher from neighbouring school to fill up the resultant vacancy which would arise due to transfer of the petitioner and if such arrangement is made in terms of Government notification dated 3rd January, 2022, petitioner shall be transferred immediately thereafter.

13) There shall be no order as to costs.

14) Urgent photostat certified copy of this judgment, if applied for, be given to the parties on usual undertaking.

(Saugata Bhattacharyya, J.)