

08.01.2026
Sl. No.10
Ct. No.14
ss

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 1400 of 2025

**Mitali Saha
Versus
The State of West Bengal & Ors.**

Mr. Sudip Ghosh Chowdhury
Ms. Shreyeta Mitra
Ms. Pritha Biswas

...for the Petitioner.

Mr. Avishek Prasad
Mr. Sourodeep Singha

...for the DPSC, Malda.

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.
2. By the present writ petition, the petitioner seeks for direction upon the respondent authorities to consider her representation dated 4th October, 2024 for transfer to a school nearby to her place of residence.
3. The petitioner contends that she is presently posted as Assistant Teacher in Jasua Jahirkhan Primary School, P.O. Mallikpara, District Malda. The service of the petitioner was confirmed by the Secretary, Malda District Primary School Council with effect from 19th February, 2023. The petitioner is suffering from gynaecological disorder and bronchial asthma. The petitioner has a minor daughter. The petitioner has to travel more than 160 k.m. up and down from her residence to attend her place of posting. On 4th

October, 2024 the petitioner made a representation before the authority concerned with a prayer for transfer. However, the same is still pending for consideration. Hence, this writ petition.

4. Mr. Sudip Ghosh Chowdhury, learned Advocate appearing on behalf of the petitioner submits that the representation of the petitioner dated 4th October, 2024 seeking transfer may be relegated to the appropriate authority to take a decision on such representation.
5. Mr. Avishek Prasad, learned Advocate appearing on behalf the District Primary School Council, Malda submits that the petitioner has to complete five years of service prior to press her prayer for transfer from the present school as per Rule 4(b) of the West Bengal Primary Education (Transfer of Teachers including Head Teachers) Rules, 2002 as amended on 13th September, 2021. In similar circumstance in *Priyanka Sarkar -versus- The State of West Bengal (WPA 7329 of 2025)*, the writ petition was dismissed since the petitioner did not complete five years of service as required under the Rule. Being aggrieved, an appeal has been preferred by the appellant-petitioner being *FMA 1104 of 2025* which is still pending. He seeks for dismissal of the instant writ petition.
6. In reply to the said contention raised on behalf of the District Primary School Council, Malda, Mr. Ghosh Chowdhury, learned Advocate for the petitioner submits that the Hon'ble Division Bench in *Madhumita*

Ghosh –versus- The State of West Bengal & ors. (MAT 672 of 2025) granted liberty to the appellant-petitioner therein to make an appropriate application for transfer on medical ground though the appellant-petitioner did not complete five years of service. He also relies on the decision of the Hon'ble Division Bench in *Animesh Majumdar –versus- The State of West Bengal & ors. (MAT 746 of 2025)*. He further submits that the application is to be considered by the authority in discharge of their administrative function. He seeks that the representation of the petitioner may be relegated to the appropriate authority for its decision.

7. Having heard the learned Advocates for the respective parties, the only issue which falls for consideration is whether the representation of the petitioner made on 4th October, 2024 prior to completion of five years of continuous service can be considered by the authority.
8. In examining the issue it would be profitable to reproduce the relevant portion of the observation of the Hon'ble Division Bench in *Animesh Majumdar (supra)* as hereunder:

“ Under the Transfer Rules a detailed procedure has been provided towards consideration of an application for transfer submitted by a teacher. Admittedly, the appellant's application for transfer dated 27th September, 2024 has not been considered as yet by the competent authority being the Secretary of the Board. As is customary in writ jurisdiction, the writ Court would, at the first instance, ordinarily not do the thing or render the decision that the executive functionary ought to do in the circumstances.

In view thereof, the order impugned in the present appeal is set aside and the respondent no.3 is directed to consider the appellant's application for transfer dated 27th September, 2024, strictly in consonance with the Transfer Rules and to take a decision, in accordance with law and communicate the same to the appellant”.

9. In *Madhumita Ghosh (supra)*, the application for transfer was made within five years of service and the writ petition was dismissed by the Single Bench. In appeal, the Hon'ble Division Bench while dismissing the appeal since the ground of transfer application was distance, granted liberty to the appellant-petitioner to make an application for transfer on medical ground.
10. Following the observations of the Hon'ble Division Bench in *Animesh Majumdar (supra)* and *Madhumita Ghosh (supra)*, the Chairman, District Primary School Council, Malda, respondent no.7 is directed to consider the representation of the petitioner dated 4th October, 2024, strictly in accordance with law, upon notice to the petitioner and dispose of the same by passing a reasoned order, within a period of six weeks from the date of communication of this order. The reasoned is to be communicated to the petitioner within one week from the date of passing of such reasoned order.
11. Learned advocate for the petitioner is directed to communicate this order to the respondent no.7, the Chairman, District Primary School Council, Malda.
12. With the above direction, the writ petition being **WPA 1400 of 2025** stands disposed of.
13. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
14. Interim order, if any, stands vacated.
15. All connected applications, if any, stand disposed of.
16. There shall be no order as to costs.

17. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
18. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)