

07.01.2026
Item No.05
Court. No. 11
Avijit Mitra

-
**FMA 245 of 2025
with
IA No.CAN 1 of 2025**

**Biswajit Tarafder
- Versus -
State of West Bengal & ors.**

Mr. Bhagbat Chowdhury,
Ms. Mallika Manna
....for the appellant
Mr. Bibek Jyoti Basu,
Mr. Saptak Sanyal
....for the State
Mr. Kanak Kiran Bandyopadhyay
....for the WBCSSC
Ms. Koyeli Bhattacharyya,
Mr. Bibek Dutta
....for the WBBSE

Affidavit-of-service, as filed, be kept on record.

The present appeal has been preferred challenging an order dated 10th December, 2024 passed by the learned single Judge in a writ petition being WPA No.24869 of 2024. From the said order it appears that the learned single Judge refused to exercise the discretion in favour of the appellant since virtually such direction *‘would be a direction upon the authorities to take a decision on transfer application, which was made on offline mode’*.

Mr. Chowdhury, learned advocate appearing for the appellant submits that the initial application for general transfer on distance ground was submitted by

the appellant on 14th November, 2022 *online* through *Utsashree Portal*. After the said application was forwarded to the school authorities, they issued no objection in his favour, as would be explicit from the documents annexed at pages 60-61 of the stay application. In the midst thereof, the *Utsashree Portal* was suspended and accordingly, his claim was illegally kept in abeyance.

Mr. Basu, learned advocate appearing for the State respondents submits that due to suspension of the *Utsashree Portal*, the appellant's application for general transfer could not be considered and as such it cannot be urged that the respondents have failed to discharge any statutory obligation or there was any laches on the part of the State authorities.

Mr. Bandyopadhyay, learned advocate appearing for the Commission submits that subsequent to the initial application for general transfer on distance ground, the appellant submitted a further application for transfer on medical ground and, accordingly, the learned single Judge rightly refused the appellant's prayer.

In reply, Mr. Chowdhury submits that a similar issue has already been decided by this Court in an appeal being MAT 339 of 2024 and as such the respondent no.5 may be directed to consider the appellant's initial prayer for general transfer on

distance ground. Let a copy of the said order, as placed, be kept on record.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

It appears that as the *Utsashree Portal* was suspended, the appellant's application for general transfer could not be considered by the respondents, in accordance with law. For such suspension of the portal, no fault can be attributed to the appellant. Procedural law cannot defeat substantive rights. It is required to assist and aid the object by the statute.

In the said conspectus, we are of the opinion that the learned single Judge ought not to have refused the appellant's prayer for consideration of his application for general transfer.

Accordingly, the order impugned in the present appeal is set aside and the appellant is directed to submit an application *offline* for general transfer on distance ground, as uploaded earlier in the *Utsashree Portal*, in the prescribed format along with all other documents including the no objection certificate issued on behalf of the school authorities to the respondent no.5 within a period of two weeks from date.

Upon receipt of the said application and other documents, the respondent no.5 shall consider the same, in accordance with law upon granting an

opportunity of hearing to the appellant and the school authorities and communicate the final decision to the appellant within a period of four weeks thereafter.

It is made clear that in the event appellant's claim deserves acceptance, all necessary follow up steps be taken by the respondents forthwith.

With the above observations and directions, the appeal and the connected application are disposed of.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)