

**01.04.
2026**

Ct. No. 24

Ab

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

WPA 2289 of 2026

Mahabul Haque

Vs.

The State of West Bengal and others.

**Mr. Shuvro Prakash Lahiri,
Mr. Rajesh Naskar,
Mr. Ankan Mondal.**

... for the petitioner.

Mr. Rezaul Hossain.

... for the State.

Mr. Sunit Kumar Roy.

... for the SSC.

1. The affidavit of service filed today is taken on record.
2. In spite of service, the School Authority is not represented.
3. The petitioner is an Assistant Teacher in a school and had sought for transfer in 2021, which had been allowed with a rider from the concerned District Inspector of Schools (SE) that the transfer would be effected as soon as a willing teacher was found for the said subject in the school.
4. Due to long pendency and non-availability of a willing teacher, the petitioner was prompted to make a second application sometime in 2022, which is also pending. The letter of June 15, 2022 is against the spirit of the notification dated

January 3, 2022. Subsequently, by orders of this Hon'ble Court passed in Gokul Chandra Mallick vs. State of West Bengal & Ors, in MAT 1218 of 2024 and Rupak Dhua vs. State of West Bengal & Ors., in FMA 995 of 2025, the position has been made clear and there is no ground to hold that the transfer cannot be effect if a willing teacher is found. As already decided in the case of Gokul Chandra Mallick (Supra):

“10. The said Notification cast duty on the District Inspector of Schools to make arrangement within the time-bound manner and does not invite any option or choice of any other teacher to volunteer in rendering his service to a School from which the appellant seeks transfer. Though the shelter was sought to be taken under the letter dated 24.05.2022 that steps have been taken but the tenet of the letter does not instill any confidence in us that it is in the spirit and tune of the Notification dated 03.01.2022.

11. The moment the statutory provision casts a duty upon the District Inspector of Schools (SE) of the concerned District to make an alternative arrangement within a time-bound manner, the way, the said authority perceived the said provision having reflected in the said letter dated 24.05.2022 is against the spirit and soul of the Notification dated 03.01.2022. A stalemate situation is brought in construing the Notification dated 03.01.2022 where the helplessness of the District Inspector of Schools is made galore that, in the event, none of the teachers volunteers to render their service to the School from where the appellant sought his transfer, the transfer application would remain in a cold-storage and cannot be brought forward.

12. This cannot be the spirit of the said Notification as the decision of the Management of the education system lies with its officials and the action to be taken within the four corners of the statutory provision which cannot be whittled down or done away with perceiving something for which the Government never issued such Notification.”

5. In view of the afore-stated, the ground of availability of willing teacher cannot be a ground to keep the transfer application of an incumbent pending indefinitely.
6. In view of the afore-stated dictum of this Hon'ble Court, the ground taken by the District Inspector of Schools is found to be unacceptable and unapplicable. However, since long period of time has lapsed, it is possible that the surrounding circumstances may have changed.
7. The petitioner is, thus, directed to make a fresh application by April 10, 2026 seeking transfer with the school authorities, who will consider the same and if found eligible will forward the application to the concerned District Inspector of Schools by April 20, 2026.
8. The concerned District Inspector of Schools (SE) will take all consequential steps in accordance with law as expeditiously as possible, in accordance with transfer Rules and Notification dated January 3, 2022, preferably within a period of four weeks from the date of receipt of the application from the school.
9. Temporary suspension of 'Utsashree Portal' will not be an impediment for the concerned authority to consider the application for transfer of the

petitioner. The same shall be considered in an offline mode.

10. Needless to mention that the decision of the school authorities and District Inspector of Schools will be strictly in accordance with the notification of January 3, 2022 and in the light of the decision of this Hon'ble Court in Gokul Chandra Mallick (Supra) and Rupak Dhua (Supra). The ground of single teacher or availability of a willing teacher will not be espoused by any of the authorities while considering the application of the petitioner.
11. With these aforesaid directions, the writ petition is disposed of.
12. There shall, however, be no order as to costs.
13. Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Reetobroto Kumar Mitra, J.)

