

22-23 04.02.
2026
Ct. No. 24
Ab

WPA 5529 of 2025
Pinki Rajak
Vs.
The State of West Bengal and others.
With
WPA 19146 of 2025
Mosammath Rajina
Vs.
State of West Bengal and others.

Mr. Sabyasachi Mukherjee,
Mr. Mrinmoy Nandy,
Mr. Biswajit Mukherjee,
Ms. Swastika Saha,
Mr. Ranabeer Halder,
Ms. Debjani Chakraborty.
... for the petitioner in WPA 5525 of 2025.

Mrs. Usha Maiti,
Mr. Sakya Maity.
... for the petitioner in WPA 19146 of
2025 & Private respondent in WPA
5529 of 2025

Mr. Swapan Kumar Datta,
Mr. Tapas Kumar Dey.
... for the State in WPA 5529 of 2025.

Mr. Swapan Kumar Datta,
Mr. Dipankar Das Gupta.
... for the State in WPA 19146 of 2025.

Mr. Subhrangsu Panda,
Mrs. Ina Bhattacharyya,
Mrs. Mithu Singha Mahapatra.
... for the College Service Commission.

Mr. Uttiya Ray,
Ms. Anima Maiti.
... for the respondent nos. 5 & 6 in WPA
5529 of 2025 & respondent nos. 11 &
12 in WPA 19146 of 2025.

Mr. Gaurav Kumar.
... for the Pakuahat College.

1. Both the writ petitions are taken up together as the issues concerned in both are intrinsically connected.

2. The petitioner in WPA 5529 of 2025 (hereinafter 'Pinki' for short) seeks issuance of a Writ permitting her to join the college where she was recommended and appointed, "Chhatna Chandidas Mahavidyalaya, Bankura" (hereinafter 'Chhatna' for short). The second writ petition being WPA 19146 of 2025 filed by Mosammath Rajina (hereinafter 'Rajina' for short) challenges a reasoned order passed by the Director of Public Instruction on June 19, 2025 refusing transfer of Rejina to Chhatna for the reasons specified in the order.
3. The pivot of dispute is a seat in Chhatna for the post of Assistant Professor of Sociology.
4. The facts, which appear from the records to be slightly convoluted but are indeed not so, are set forth for a clear understanding. Rajina had applied for transfer from her present college, Pakuahat Degree College, Malda, to colleges of her choice. She had been making such request since 2017 and had filed several applications before this Hon'ble Court, the last of which resulted in an order by a Division Bench of this Hon'ble Court on May 1, 2025 directing, the Director of Public Instructions (hereinafter 'DPI' for short) to consider the case of Rajina favourably within a specified time by way of reasoned order. It is the reasoned order of June 19, 2025, passed by the DPI pursuant to the afore-

stated order of May 1, 2025, which Rajina has assailed in her writ petition.

5. The plinth of the reasoned order by the DPI of June 19, 2025 is that the vacant post in Chhatna of Assistant Professor in Sociology was not a clear vacancy, in view of Pinki having been appointed to such post on March 19, 2024 pursuant to a recommendation issued on March 13, 2024. Pinki was asked to join Chhatna by April 20, 2024, in default whereof her candidature would be treated as cancelled.
6. Pinki created the confusion, by issuing a letter on March 27, 2024 refusing to accept the appointment on the ground of distance and remote location of Chhatna. However, since Pinki had time till April 20, 2024 to join the college, Pinki by a mail of April 7, 2024 i.e. within April 20, 2024 expressed her willingness to join the said post at Chhatna.
7. This fact of Pinki, recommendation and appointment to the vacant post at Chhatna was not brought to the notice of the Hon'ble Division Bench. In any event, the order passed by the Division Bench on May 1, 2025 did not specify nor create any equity in favour of Rajina that she would be appointed to that very vacant post, at Chhatna.
8. From the records it appears that a further confusion arose between the authorities as to

whether the letter of March 27, 2024 issued by Pinki had been withdrawn or not. In fact, a reference has been made that the letter had not been withdrawn till the lapse of about eight months.

9. It is in these afore-stated circumstances that the two warring petitioners have come before this Court, not pitted against each other but to establish their own individual rights qua their own writ petitions.
10. I have heard learned Counsel appearing for all the parties and considered the records.
11. The basic premise of the petitions of Pinki and Rajina are very different. Pinki is establishing a right pursuant to the recommendation and appointment while Rajina is asserting a discretion of the authorities and not a right. It is not in dispute that transfer is not a matter of right but arises out of administrative exigencies for authorities and really for the larger benefit of the students. It is true that Rajina has to travel a rather long distance to attend college and impart education to the students, which may not be wholly congenial for her or the students to whom she is imparting education. At the same time, this lack of congeniality cannot construe a right in her favour. Pinki, on the other hand, has a right on the basis of

the letters recommendation and appointment issued by the authorities in her favour on March 13 and March 19, 2024 respectively.

12. The next issue that arises for consideration is whether by merely giving a letter on March 27, 2024 that she was not willing to join Chhatna due to its remote location and distance, Pinki had given up or surrendered her right to be appointed to the said college. The said letter of March 27, 2024 issued by Pinki is a communication in personem between Pinki and the college authority. Such private communication cannot create a right in favour of any third party. Further, the said letter was effectively withdrawn, even though not in so many words, by her letter of willingness of April 7, 2024 to assume charge as Assistant Professor of Sociology in Chhatna. The earlier letter of March 27, 2024 was deemed to have been withdrawn. Any other interpretation would completely negate the purpose of the letter of April 7, 2024 issued by Pinki. Thus, Pinki had a right she was espousing while Rajina was seeking to rely on an administrative discretion, which would only have a basis if the post of Assistant Professor, Sociology in Chhatna was vacant.

13. The DPI in this regard, in no uncertain terms in its order of June 19, 2025 held that there was no clear

vacancy to such post in Chhatna, as the recommendation and appointment of Pinki were valid but were merely being questioned due to the letter of March 27, 2024, which the authorities felt had not been withdrawn specifically, even though a letter of willingness, subsequent thereto of April 7, 2024 had been issued by Pinki.

14. The third issue, which has created slight confusion, is application of Rajina and the response thereto under the Right to Information Act, 2005. The first query in such application made by Rajina was whether the post of Assistant Professor, Sociology in Chhatna had been filled up from amongst the empanelled candidates. The reply thereto is a clear yes, which meant that there was no vacancy as opposed to the construction thereof by Rajina that there was a vacancy.

15. If two petitioners were to be pitted against each other, the rights of Pinki would clearly prevail over a purported discretion, which was not vested with the authorities insofar as the seat at Chhatna was concerned, in view of the fact that there was no vacancy thereof.

16. Since Pinki conveyed her willingness to join within the time specified by the college authorities, I hold that she effectively withdrew her letter of March 27, 2024, and has affirmed her readiness to assume

the post at Chhatna. Conversely, as Rajina possesses no right to seek transfer to a particular college, her petition, not being founded on the violation of a legal right, cannot be permitted.

17. Pinki's appointment is at stake, while Rajina is already a serving Assistant Professor. The equities are clearly in favour of Pinki.

18. Mr. Ray, learned Advocate appearing for the respondents 5 and 6, has in no uncertain terms, submitted that there is no clear vacancy as Pinki has not withdrawn in so many words and that they have no objection if Pinki joins the said post pursuant to the recommendation and appointment given to her.

19. In view thereof, I allow WPA 5529 of 2025 and direct the college authorities to permit Pinki to assume charge as Assistant Professor, Sociology from February 20, 2026. The appointment of Pinki will be deemed from the date of joining the college and not from the date when the appointment was given since she had refused to join earlier, in accordance with law. In default thereof, the seat will be declared a vacant seat and the college authority will requisition to fill up the vacancy.

20. The DPI is directed to consider any further application that may be made by Rajina for seeking a transfer to a college of her choice, if there is an

available vacancy thereat. Rajina is the victim of circumstances and the DPI should treat her case sympathetically and allow her transfer to a college more accessible to her.

21. However, I do not find any reason to set aside, quash or rescind in any manner whatsoever the order of June 19, 2025 passed by the DPI in WPA 19146 of 2025.
22. With these afore-stated directions, WPA 19146 of 2025 is disposed of.
23. There shall, however, be no order as to costs.
24. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Reetobroto Kumar Mitra, J.)