

09.04.2026
Sl. No.5(DL)
Ct. No.14
srm/AN

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

W.P.A. No. 15375 of 2025

Somnath Kar

Versus

The State of West Bengal & Ors.

Mr. Saumik Ganguli,
Mr. Dilip Kumar Sadhu

...for the Petitioner.

Mr. Swapan Kumar Datta, Sr. Adv. & GP
Mr. Kaustav Chatterjee

...for the State.

Mr. Bhaskar Prasad Vaisya,
Mr. Nilay Baran Mandal

...for the DPSC, Purulia.

1. Report furnished by the Chairman/Secretary, District Primary School Council, Purulia dated 7th October, 2026 disclosing the number of teachers in different schools under the DPSC, Purulia, is taken on record.
2. By the present writ petition, the petitioner seeks for cancellation and/or withdrawal of the order under Memo No.5 dated 2nd April, 2025 of respondent no.6, Chairman/Secretary, District Primary School Council, Purulia rejecting the application of the petitioner seeking transfer.
3. The petitioner contends that he is an Assistant Teacher of Pathakdih Midhi Primary School, under Jhalda-II Circle, District-Purulia. The petitioner joined the said school on 4th February, 2010. The petitioner has been confirmed in service with effect from 4th February, 2012. On 25th August, 2021, the petitioner

made an application seeking transfer through online “*Utshasree*” portal. Since the said application was not considered by the authority, the petitioner filed a writ petition being WPA 9459 of 2022. The said writ petition was disposed of 28th August, 2023 holding that there is no question of transfer of the petitioner, considering the report furnished by DPSC, Purulia stating that the Pupil-Teacher Ratio in the school where the petitioner is working is 42:1. Challenging the aforesaid order, the petitioner preferred an appeal being MAT 1400 of 2024 which was disposed of on 7th January, 2025 by the Hon’ble Division Bench directing the Council to consider the application for transfer filed by the applicant afresh. Pursuant to such order, the Chairman/Secretary, District Primary School Council, Purulia rejected the application of the petitioner seeking transfer by the impugned order on the ground that the school where the petitioner is presently posted is running with two teachers with enrolment of 77 number of students and as per the Right of Children to Free and Compulsory Education Act, 2009 (*in short RTE Act, 2009*) there is requirement of another teacher in that school. Being aggrieved by such order the petitioner has preferred the present writ petition.

4. Mr. Saumik Ganguli, learned Advocate appearing for the petitioner submits that the Hon’ble Division Bench in MAT 1400 of 2024 observed that earlier order of rejection did not indicate that there are no

surplus teachers in any other school under the DPSC, Purulia and held that the decision arrived at by the Council lacks application of mind and directed for reconsideration. However, the Chairman of the Council while rejecting the application of the petitioner seeking transfer, has not considered the observation and direction of the Hon'ble Division Bench in its strict sense. Therefore, the impugned order is liable to be set aside and the Council be directed to revisit the issue in the light of the observation made by the Hon'ble Division Bench.

5. Mr. Bhaskar Prasad Vaisya, learned Advocate representing the District Primary School Council, Purulia submits that in the event the petitioner is transferred there will be deficit teacher in the existing school contravening the Pupil Teacher Ratio as provided in schedule of RTE Act, 2009 and, therefore, the petitioner cannot be transferred. The impugned order of rejection by the Chairman-cum-Secretary of the District Primary School Council, Purulia has precisely considered the said aspect that there would occasion a deficit of the teacher in the existing school. Hence, the impugned order does not call for any interference.
6. Upon hearing the learned advocate for the respective parties, the only issue which falls for consideration is whether the impugned order of respondent no.6 is sustainable or not?

7. At the outset, it would be profitable to reproduce paragraph nos. 9 and 10 of the decision of Hon'ble Division Bench in MAT 1400 of 2024 [*Somnath Kar vs. the State of West Bengal & ors.*] as hereinbelow:

“9. Rule 5 of the said Rule contains an exhaustive provision relating to the procedure to be followed on an application for transfer and our endeavour has failed to find out any conditions or grounds enumerated therein which would invite the rejection of a genuine application solely on the ground of imbalance having created into Pupil-Teacher ratio. Each application for transfer is decided on its merit and within the four corners of the statutory provisions as the decision de hors the same, is always to be eschewed. Rule 5 does not contain any provision that the application should be rejected on such ground envisaged under Rule 3 of the said Rules but provide a complete mechanism in dealing with the application for transfer.

10. The aforesaid findings would get further impetus on the provisions contained in Rule 5 of the said Rules where the Council have been empowered to effect the transfer annually, obviously taking into account that the Pupil-Teacher ratio is maintained. The cumulative effect of the provisions contained in Rules 3, 4 and 5 leaves no ambiguity in my mind that the moment there is deficit in the Pupil-Teacher ratio, the imbalance can be cured by transferring a teacher from a school having a surplus teacher in relation to the Pupil-Teacher ratio. The order does not indicate that there is no surplus teacher in any other school within its jurisdiction but proceeded simpliciter on the basis that it would create a disruption in the Pupil-Teacher ratio and, therefore, the application cannot be entertained, which in our opinion, has been taken without due application of mind.”

8. Bearing in mind the aforesaid observation, let me revert back to the fact of the case. The impugned order of rejection records that the school where the petitioner is presently posted is running with two teachers with enrolment of 77 number of students and as per RTE Act, 2009 there is requirement of another teacher in that school. It is relevant to note that the impugned order fails to indicate that there is no surplus teacher in any other school within its jurisdiction.
9. Mr Bhaisya, learned advocate for DPSC, Purulia tried to impress upon the court that the transfer of the petitioner would lead to deficit of teacher in the existing school and hence the same cannot be effected. The Hon'ble Division Bench in its aforesaid decision in paragraph no.8 has considered such aspect and observed as follows.

“8. The conjoint reading to Rules 3 and 4 of the said Rules conveys the laudable intention of the legislature that it is obligatory on the part of the Council to maintain the Pupil-Teacher ratio but that would not stand as a fetter in applying for transfer or deny the prayer for transfer despite the same having founded upon the plausible and convincing ground. While interpreting the statutory provisions, the first and foremost duty of the Court is to harmonize the same so as to make it workable. The interpretative tools should not be used by the Court to render any such provisions otiose or redundant but the attempt must be resorted to operate in their respective sphere without overreaching or creating a shadow of umbrella upon the other.

10. In the light of the above observation of the Hon'ble Division Bench, the argument advanced

on behalf of the Council cannot be accepted. Report filed by DPSC, Purulia shows that there is surplus teacher in several schools under its jurisdiction. The Council under the Rules is very much authorised to transfer teachers in order to maintain the Pupil-Teacher Ratio. In the event of deficit of teacher in the existing school that may be fulfilled from the schools having surplus teachers and such ground would not stand as a fetter in applying for transfer or denying the prayer for transfer if founded on reasonable and convincing ground. Therefore, the ground of deficit teacher in the existing school, taken by the Chairman-cum-Secretary of the District Primary School Council, Purulia in rejecting the prayer of the petitioner is not sustainable.

- 12 In light of the above discussion, the impugned order under Memo No.5 dated 2nd April, 2025 passed by the Chairman-cum-Secretary of the District Primary School Council, Purulia is set aside.
- 13 Accordingly, Respondent no.5, District Primary School Council, Purulia is directed to reconsider the application of the petitioner seeking transfer afresh in the light of the observations made by the Hon'ble Division Bench, particularly, in paragraph 10, as quoted hereinabove within a period of 8 weeks from the date of communication of the order.
- 14 Learned advocate representing the petitioner is directed to communicate this order to Respondent no.

5, the District Primary School Council, Purulia for necessary compliance.

15 With the above directions, the writ petition being **WPA 15375 of 2025** stands disposed of.

16 Since no affidavits have been called for, the allegations made in the writ petition are deemed to be not admitted.

17 Consequently, connected applications, if any, also stand disposed of.

18 Interim orders, if any, stand vacated.

19 There will be no order as to costs.

20 Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Bivas Pattanayak, J.)