

22.04.2026
Sl. No. 73
Ct No. 24
SG

WPA 15447 of 2025

**Beauti Baitha
Vs
The State of West Bengal & Ors.**

Mr. S.P. Lahiri,
Mr. Rajesh Naskar,
Mr. Ankan Mondal.

...for the petitioner

Mr. Kanak Kiran Bandyopadhyay.

...for WBCSSC

Mr. Subhajit Chowdhury.

...for the State

1. Affidavit of service, as filed, be kept with the record
2. The petitioner's application for transfer has been kept pending by the school authorities.
3. This is the second round of transfer application made by the petitioner. In the earlier round, the petitioner had applied on the dual ground of child medical and distance, which was not considered and was carried by the petitioner to this Hon'ble Court by way of a writ petition being WPA 3545 of 2025. This writ petition was dismissed on the ground that the application had not been made in the prescribed proforma and hence failed.
4. The present application seems to have ticked all the boxes procedurally. This application for transfer has been made on the child's medical ground alone. The petitioner as the mother is the caregiver of an autistic child who is approximately nine years old and has been diagnosed with 60% disability due to a severe disorder termed as "fluic of

Aunrn spectrum disorder, which has resulted in 60% permanent disability of the child. This disability stems from a brain disorder of the child as appears from a disability certificate issued by the Government of India on 19th November 2024.

5. The State (DI) can only act once the school authorities issue a requisite No Objection Certificate signifying their consent to the transfer of the petitioner to the said DI. It is this *No Objection Certificate* which is yet to be issued by the school authorities.

6. Learned advocate for the State takes a fair stand and submits that in the event the school gives the requisite certificate, the concerned DI has no difficulty in processing the same for onward progression.

7. Quite unconnected with the matter at this stage, it is Mr. Bandyopahdyay who has raised certain objections. The objections are of some substance. According to Mr. Bandyopahdyay, the Rule 4(a) of the notification dated September 8, 2021 reads as under:-

- “4. Grounds for transfer. – An incumbent may apply online in the designated portal for transfer on following grounds:*
- (a) Any incumbent or his/her son/daughter/spouse suffering from malignant disease/severe heart disease renal failure/thalassemia, replacement of organ/serious gynecological disorder causing serious problem in attending the school;*
 - (b) Physically disablement of 40% or more as certified by competent authority;*
 - (c) Female incumbent facing serious problem in attending the school due to diverse or death of husband;*
 - (d) Incumbent of age 57 years and more willing for home district posting;*
 - (e) Any other reasons.”*

8. According to Mr. Bandyopadhyay, the grounds for transfer of an incumbent relating to his child have been specified in Rule 4(a).

9. Mr. Lahiri appearing for the petitioner has submitted that 4(a) to 4(d) specify particular grounds, though the grounds in 4(a) and 4(c) cannot be all encompassing, on account whereof an omnibus ground has been inserted in clause (e) of Rule 4. This omnibus ground, according to Mr. Lahiri, applies to those grounds which are incapable of any further elucidation in the present rules. This relates to ground (a) and ground (c) of Rule 4. Since (b) and (d) provide for specific ground, Clause (e) may not have any applicability to them. However, Clause (e) would certainly apply to grounds (a) and (c).

10. In order to buttress his submission, he has relied upon several decisions of this Hon'ble Court which are enumerated hereunder:-

WPA 20742 of 2023 [Saurav Basu vs. The State of West Bengal & Ors.]; WPA 9141 of 2025 [Swati Pal vs. The State of West Bengal & Ors.]; WPA 26829 of 2024 [Sunita Nandan vs. The State of West Bengal & Ors.].

11. He has also placed reliance on a decision of the division bench of this Hon'ble Court in *MAT 1065 of 2024 [Dipti Biswas vs. The State of West Bengal & Ors.]*, delivered while dealing with Rule 5(3) of the West Bengal Primary Education (Transfer of Teachers including Head

Teachers) Rules, 2002, which are pari materia with Rule 4 of the Rules mentioned herein relating to the primary section. While dealing with the aforestated Rule, Clause (e) of Rule 5(3) the Hon'ble Division Bench has held in no uncertain terms the following:-

“The purpose of incorporating clause (e) therein would be totally frustrated if the application for transfer is decided on the grounds enumerated under clause (a) to (d). The judicial experience gained in dealing with the case exposes other grounds than the grounds incorporated in clause (a) to (d) and one of such example can be given that the transfers are sought on the ground of distance for the inconvenience faced by a teacher in attending the school. The authorities have also taken a conscious decision treating the said incidents as a ground covered under clause (e) thereof; provided the authorities are satisfied that such transfer is warranted.”

12. I have heard the learned advocates appearing for the parties and perused the decisions relied upon by them and the relevant documents.

13. As it appears from a plain reading of Rule 4, the insertion of Rule 4(e) would be redundant if (a) to (d) were a water tight rigid compartment without any opportunity of any elucidation in any manner whatsoever as suggested by Mr. Bandyopadhyay. This rigidity would result in a constriction of Rule, which is not perhaps the legislative intent. It is possible that while dealing with disabilities or diseases, as stipulated in 4(a), the legislature could not have comprehended any further diseases which may have a permanent bearing on the well-being of a person or even the mobility of a person. Thus, it is not merely the physical well-being that is concerned but also the mental alertness

and well-being which are of importance. It is possible that a child is physically fit and does not require physical assistance for mobility but is mentally differently-abled and requires a continuous and constant caregiving even for achieving the smallest household chores. Such issues have not been included in Rule 4(a) and it is perhaps for this purpose that sub-rule (e) was incorporated. If Rule 4(a) was to be considered as rigid compartment then the inclusion of 4(e) would be rendered redundant.

14. The decision of the Hon'ble Division Bench is quite clear and unequivocal. A Clause such as 4(e) which is *pari materia* with 5(3)(e) of the aforestated rules of the primary division, was interpreted to be an omnibus clause in aid of a clause which could not have sufficient elucidation. Rule 4(a) is akin to and in fact identical to Rule 5(3)(a) of primary rules. If Rule 5(3)(e) has been held to be an omnibus clause in aid of at least Rule 5(3)(a), I find no reason to give a separate interpretation to 4(e) as a similarly situated omnibus clause to aid and if required enlarge the interpretation of 4(a). However, this enlargement has to be exercised with caution and cannot apply to every other disease or disability. In fact, disability of the child is not a ground at all for transfer. Thus, the qualifying factors in Rule 4(a) should be any serious problem which would hamper or create a hurdle for the incumbent to attend to her duties in the school. This, especially if the school is situated at a distance which is

afar from his or her place of residence. Any such disease which results in a disability and causes the incumbent a serious problem to attend to her duties in the school ought to be considered within the fold of Rule 4(a) to afford an opportunity of transfer to the said incumbent.

15. In the present case, the child of the petitioner is mentally disabled as would appear clearly from the disability certificate issued.

16. The Hon'ble co-ordinate Bench of this Court in the matter of **Saurav Basu** (supra) has also interpreted Rule 4(a) on similar lines and has succinctly held that 4(a) contemplates diseases which cause a serious problem in the teacher attending school.

17. In the present case, the ailment of the child of the petitioner is one which clearly would cause a serious problem for the petitioner to attend to her duties at the school which is 230 kms away from her place of residence.

18. In view of the aforesaid, as a special case which should not create a precedent, I direct the school authorities to consider the case of the petitioner and if found eligible to issue the requisite certificates and declaration, including the No Objection Certificate, as expeditiously as possible, positively by May 31st, 2026, to the concerned DI who shall consider the same in accordance with law for onward progression of such application. The Commission, upon receipt of the application from the DI will dispose of the same within a

period of six weeks from the date of receipt of the application.

19. With the aforestated directions, the writ petition is disposed of. No order as to costs.

20. Urgent certified website copy of this order, if applied for, be made available to the petitioner upon compliance with the requisite formalities.

(Reetobroto Kumar Mitra, J.)