

07.01.2026
Item No. 18
Ct. No. 14
AN

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

**WPA 19435 of 2025
Mofijul Islam & ors.
vs.
State of West Bengal & ors.**

Sk. Shahjahan Ali
... for the petitioners

Mr. Pratik Dhar, Id. Senior Advocate
Ms. Madhurima Sarkar
... for the Madrasah Service Commission

Mr. Nadeem Sulaiman
... for the Madrasah Board

Mr. Chandan Chakraborty
... for the State

1. Affidavit of service filed on behalf of the petitioners is taken on record.
2. By the present writ petition, the petitioners seek for direction upon respondent authorities to grant mutual transfer of the petitioners amongst themselves in terms of the application for mutual transfer dated 24th December, 2024.
3. Petitioner no. 1 is an Assistant Teacher in Kumarpur High Madrasah, P.O. Kumarpur, under District Inspector of Schools (S.E.), Purba Medinipur. Petitioner no. 2 is an Assistant Teacher in Monglapota Jr. High Madrasah, P.O. Kharkusma under District Inspector of Schools (S.E.), Paschim Medinipur. Petitioner no. 3 is an Assistant Teacher in Harit Ayub

High Madrasah P.O. Harit under District Inspector of Schools (S.E.), Hooghly. The petitioners jointly made an application on 24th December, 2024 before the Chairman of the Madrasah Service Commission for their mutual transfer. The same is still pending with the authority. Hence this writ petition.

4. Sk. Shahjahan Ali, learned advocate appearing for the petitioner submits that appropriate direction be issued upon the respondent no.4, West Bengal Madrasah Service Commission to consider such application of the petitioners for mutual transfer.
5. On the contrary, Mr. Pratik Dhar, learned Senior Advocate appearing on behalf of the West Bengal Madrasah Service Commission referring to Rule 32 of the West Bengal Madrasah Service Commission Recruitment (Selection and Recommendation of persons for Appointment and Transfer to the Posts of Teacher and Non-Teaching Staff) Rules, 2023 (*hereinafter referred to as 'Rules of 2023'*) submits that in case of mutual transfer the procedure as laid down in said Rule has to be adhered to. Rule 32 clearly stipulates that the willing teachers / non-teaching staff of two different Madrasahs can apply for mutual transfer whereas in the instant case, three teachers have made application directly to the Commission. Further Rule 32(1) of the said Rules of 2023 also requires that the said application for mutual transfer has to be made in prescribed format through the

concerned Madrasah, District Inspector of Schools (S.E.) and the Director of Madrasah Education in case of inter-district transfer. The Director of Madrasah Education thereafter upon scrutiny shall forward such prayer for mutual transfer to the Commission. In the present case, the application is made directly to the Commission. Moreso, such application is not in proper format and hence cannot be considered. However, if the petitioners choose to file appropriate application in prescribed format following the procedure laid down in Rule 32 of the said Rules of 2023, the same can be considered by the Commission in accordance with the Rules.

6. In order to examine the issue raised in the present writ petition, it would be apposite to reproduce Rule 32 of the said Rules of 2023 as hereunder:

“32. Procedure of Mutual transfer:

(1) The willing teachers/non-teaching staff of two different Madrasahs agreed to mutual transfer shall have to submit application in the prescribed format along with necessary documents to the Commission through the concerned Madrasah and concerned District Inspector of Schools (SE) in case of Mutual Transfer within the District or through the concerned Madrasah, concerned District Inspector of Schools (SE) and the Director of Madrasah Education in case of inter District Mutual Transfer.

(2) The Head of the Madrasah (H.M./Superintendent/TIC) shall, after proper verification and scrutiny, forward the eligible transfer application(s) with specific comments/views, along with relevant papers to the District Inspector of Schools (SE)/authorized officer within 15 days from the date of submission of the application.

(3) The District Inspector of Schools (SE)/authorized officer concerned shall, after proper verification and scrutiny, forward the eligible applications, with specific comments/views to the Commission in case of mutual transfer within the district and to the Director of Madrasah Education, in case of mutual transfer from one district to another,

within 15 days from the date of receipt of such application.

(4) The Director of Madrasah Education, after scrutiny, shall, after proper verification and scrutiny, forward the prayer for mutual transfer to the Commission with specific comments/views.

(5) The Commission shall recommend the eligible applicants and communicate the same to the concerned Madrasahs recommending appointment of incoming teacher/non-teaching staff and release of outgoing teacher/non-teaching staff.

(6) The Madrasah Authorities/the Heads of both the Madrasahs in absence of Madrasah Authority, shall release the existing staff and allow the staff of other Madrasah to join the Madrasah as per recommendation of the Commission.

Note: Both the candidates and the Madrasahs shall consult beforehand about the reciprocal release an (appointment) of the candidates on mutual transfer.”

7. Upon bare reading of the aforesaid provision, there cannot be any dispute that the application dated 24th December, 2024 submitted by the petitioners for their mutual transfer before the Chairman, Madrasah Service Commission is not in conformity with Rule 32 of the said Rules of 2023. Needless to mention that the application for mutual transfer of the petitioners has also not been submitted in prescribed format. For such reason, the writ petition falls short of merit.
8. Under such circumstances, the writ petition **WPA 19435 of 2025** is disposed of granting liberty to the petitioners to approach the authority concerned for their mutual transfer adhering strictly to Rule 32 of the said Rules of 2023. In the event, such application is made as per Rules and the same is forwarded by the authority concerned upon scrutiny, the West Bengal

Madrasah Service Commission shall consider the same in accordance with law.

9. Since no affidavits have been called for, the allegations made in the writ petition are deemed to be not admitted.
10. Consequently, connected applications, if any, also stand disposed of.
11. Interim orders, if any, stand vacated.
12. There will be no order as to costs.
13. 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.)