

28.01.2026
Item No.13
Court No.11
Avijit Mitra

MAT 2147 of 2025
with
IA No.CAN 1 of 2025
with
IA No.CAN 2 of 2025

Jayanta Bag
- Versus -
The State of West Bengal & ors.

Mr. Sudip Ghosh Chowdhury,
Ms. Shreyata Mitra,
Ms. Pritha Biswas
.....for the appellant
Mr. Asish Kumar Guha,
Mr. Rajendra Chaturvedi
...for the State
Dr. Satanu Kumar Patra,
Ms. Supriya Dubey
....for the WBCSSC

Affidavit-of-service, as filed, be kept on record.

The present appeal has been preferred challenging an order dated 5th March, 2025 passed by the learned single Judge in the writ petition, being WPA 3758 of 2025. In connection with the present appeal, an application being IA No.CAN 1 of 2025 has been filed seeking condonation of delay.

Mr. Ghosh Chowdhury, learned advocate appearing for the appellant submits that the delay, which has occurred is neither *mala fide* nor intentional and it cannot be said that the appellant adopted dilatory tactics. In view thereof, the delay may be condoned.

Mr. Chaturvedi, learned advocate appearing for the State has left the issue to the discretion of the Court.

Upon perusing the materials on record, we are satisfied with the explanation given towards the delay in preferring the present appeal and, accordingly, such delay is condoned and the application being IA No.CAN 1 of 2025 is disposed of.

The present appeal has been preferred challenging an order dated 5th March, 2025 passed by the learned single Judge in the writ petition, being WPA 3758 of 2025 which was disposed of by the order impugned observing *inter alia* as follows:

‘Having considered the submissions made on behalf of the parties the writ petition stands disposed of directing the District Inspector of Schools (SE), Bankura being respondent no. 5 to make an endeavour to find out willing teacher of neighbouring school who can man the post of the petitioner temporarily till regular incumbent joins the resultant vacancy to be created due to transfer of the petitioner’.

Mr. Ghosh Chowdhury submits that the notification dated 3rd January, 2022 casts a duty upon the District Inspector of Schools (SE), Bankura [hereinafter referred to as the DI(SE)] to take urgent step in a time-bound manner to search for a teacher on the same subject from nearby and make local arrangement so that the teacher of the other school attends the school wherefrom the teacher has applied for transfer on days of the week on a temporary basis till such time a permanent subject teacher joins. There is no provision

in the notification dated 3rd January, 2022 to invite any option or choice of any other teacher to volunteer in rendering service to a school from which the appellant seeks transfer. As such, the learned single Judge erred in law in incorporating a rider to the effect that in the event willing teacher is found then the appellant's claim shall be considered. Such argument, as urged, was glossed over by the learned single Judge and no finding was returned on the same. Reliance has been placed upon a judgment of a co-ordinate Bench of this Court delivered in the case of *Gokul Chandra Mallick Vs. The State of West Bengal & Others* [MAT 1218 of 2024].

Mr. Chaturvedi submits that the learned single Judge has directed consideration of the appellant's claim in the light of the notification dated 3rd January, 2022 and there is no infirmity in the order impugned.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

In the notification dated 3rd January, 2022 there is no rider that the DI(SE) has to make any endeavour to find out any willing teacher of neighbouring school, who can man the post of the appellant temporarily till the regular incumbent joins the post. The term '*willing*' does not feature in the said notification and the appellant's claim for transfer cannot be kept in abeyance till a willing teacher is found.

In view thereof, the order impugned in the present appeal is modified to the effect that the DI(SE) shall act in strict consonance with the provisions of the said notification

dated 3rd January, 2022 and the observations made in this order and take expeditious steps for filling up the resultant vacancy that may arise after the appellant is transferred. The entire exercise shall be completed by the DI(SE) being the respondent no.5 herein preferably within a period of three months from the date of communication of this order.

With the above observations and directions, the appeal and the connected application are disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)