October 7, 2026
(44) ARDR

In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction

**WPA 442 of 2025**

Asis Chakraborty
Vs.
The State of West Bengal & ors.

Adv. Shuvro Prakash Lahiri,
Adv. Debjit Kundu,
... for the petitioner.

Adv. Supriya Singh,
Adv. Radhika Agarwal,
... for the State.

The petitioner was appointed as an Assistant Teacher in Mathematics in Bengkandi Junior High School vide appointment letter issued on 11th July, 2011. He joined service on 19th July, 2011. A scheme for transfer named West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 was introduced by the Government of West Bengal vide order dated 27th February, 2015 pursuant to which the petitioner applied for general transfer in the Utsashree portal which was rejected for which he approached this Court in a writ petition. However, this Court refused to interfere with the said order. A further application was submitted by the petitioner offline on 28th September, 2024 which is yet to be considered. The petitioner seeks consideration of the same in the affirmative.

Learned counsel for the petitioner has placed reliance on judgments of Hon'ble Division Benches of

this Court in FMA 995 of 2025 on 31st July, 2025 and FMA 1640 of 2025 on 24th July, 2026 in support of his contention.

It appears from the statement of facts submitted by the State that since the petitioner is a single subject teacher in Mathematics, no transfer can be allowed in view of The Right of Children to Free and Compulsory Education Act, 2009 which mandates at least one teacher for each subject.

I have considered the rival contention of the parties.

The West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 were amended from time to time and the amendment vide memo dated 3rd January, 2022 envisages that "In the event a single subject teacher makes application for transfer, the SMC will not reject the application and inform the DI (SE) about such application. The DI (SE) will immediately discuss the matter with CSE. In fit cases the DI (SE) will take urgent steps in time bound manner to search for a teacher on the same subject from nearby schools and make local arrangement so that the teacher of the other schools attends wherefrom the teacher concerned has applied for transfer on limited days of the week on a temporary basis till such time a permanent teacher of that subject joins. The DI (SE) will inform such arrangement to the CSE who shall inform the matter to the Chairman,

WBCSSC, the President of WBBSE and school education department. CSE will ensure such arrangement in seven days time. The DI (SE) will communicate such arrangement to the school concerned and the HOI in question will forward the application of the teacher to the DI (SE). The DI (SE) will then forward the case to the WBCSSC for consideration. The WBCSSC will suitably recommend the case for transfer to the WBBSE and the Board will issue transfer order accordingly.

This remains in force until further orders".

The issue has been decided by the Hon'ble Division Benches of this Court which has held in no uncertain terms that the notification does not contain a rider that the DI (SE) has to make an endeavour to look for any willing teacher of a neighbouring school who can man the post of the petitioner temporarily till the regular incumbent joins prior to considering the application for transfer. In other words, the application for transfer made by the petitioner is not dependent on the willingness of a teacher from the neighbourhood to replace him temporarily or temporary arrangement made by the authority in this regard. On the other hand, the notification casts responsibility upon the DI (SE) to discuss the issue with CSE and take necessary steps to search for a teacher on the same subject from nearby schools. However, such temporary arrangement can, under no circumstances, be a prerequisite for allowing

the prayer of the petitioner. The general provision laid down in the Act of 2009 is followed by the Rules of 2015.

In view of the above, the District Inspector of Schools (SE), being the 5th respondent herein, is directed to forward the application made by the petitioner to the Chairman, West Bengal Central School Service Commission, being the 4th respondent herein, within two weeks from the date of communication of this order. The 4th respondent is directed to deal with the issue in the light of the observation made in this order, particularly the memo dated 3rd January, 2022 and take a reasoned decision within four weeks from the date of receipt of the communication from the 5th respondent.

The decision taken by the authority shall be communicated to the petitioner within a week thereof.

Necessary consequential steps be taken by the authority upon disposal of the application.

With the above observation and direction, the writ petition is disposed of.

However, there shall be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to have been admitted.

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

**(Suvra Ghosh, J)**