

**24.07.2026.
Court No. 13
Item No. 14
pk**

**F. M. A. 1640 of 2025
With
I.A. No. CAN 1 of 2025**

**Moumita Saha
-Versus-
The State of West Bengal & Ors.**

Mr. S. P. Lahiri

... for the appellant.

Mr. Sahasrangshu Bhattacharjee, Ld. AGP

Ms. Mary Datta

... for the State.

Mr. Kanak Kiran Bandyopadhyay

... for the WBCSSC.

1. The instant appeal is directed against an order dated 3rd September, 2025 passed by a Single Bench of this Court in WPA 17704 of 2025. The Single Bench has substantially dealt with the law with regard to the transfer but has only deviated therefrom in last four lines of paragraph 4 on the 2nd page of the impugned order. The said expression is as follows :

“If teacher is found from neighbouring school and deputed in the school of the petitioner, petitioner shall be transferred immediately thereafter in accordance with law.”

2. Mr. Lahiri, learned counsel for the appellant has placed the case of Rupak Duha Vs. The State of West Bengal and others in FMA 995 22025 which was disposed of by an order dated 31st July, 2025 by a Co-ordinate Bench. In the said order it has been clarified that the teacher upon fulfilling all criteria is required to be transferred and relief first and the resulted

vacancy shall be filled up even by calling upon a teacher of the similar subject in a nearby school to man the post and impart instructions in the subject in which the applicant was the only teacher.

3. This Court is of the view that the identification of a teacher from a neighbouring school cannot be made a precondition for holding the transfer of the petitioner who otherwise fulfils all criteria for transfer even if it is a single teacher post.

4. In that view of the matter, the impugned order is modified to the extent that the petitioner is found eligible for transfer, shall be permitted to move to the chosen schools or the one where vacancy is available nearby to the chosen schools.

5. The D. I. of Schools (SE) shall thereupon take urgent steps to locate a teacher from a nearby school to instruct students of the existing schools in the subject concern in the resulted vacancy.

6. The D.I. of Schools(SE) shall therefore take immediate steps to send the application of the petitioner to the Commission for further steps under the appropriate Rules subject to the petitioner's fulfilling all criteria. Let the D.I. of Schools take appropriate steps within one month from the date of communication of a copy of this order. The Commission shall thereafter take expeditious steps to recommend available vacancy to the petitioner.

7. With the aforesaid observations, FMA 1640 of 2025 is allowed and disposed of. Consequently connected pending application is also disposed of.

8. There shall be no order as to costs.

9. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Rai Chattopadhyay, J.)