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Ct. 18
06.09.2023

W.P.A. 21134 of 2023
I.A. No : CAN 1 of 2023

Sk. Hasibur Rahman
Vs.
The State of West Bengal & Ors.

Mr. Biswaroop Bhattacharya,
Mr. Golam Mohiuddin,
Mr. Anindya Bose,,
Ms. Puja Mondal ... For the petitioner.

Mr. Arindam Chattopadhyay,
Ms. Lipika Chatterjee ... For the State.

Mr. Uttam Kr. Bhattacharyya
... For the respondent nos. 7 & 8.

Mr. Prosenjit Mukherjee,
Ms. Madhurima Sarkar
... For the Madrasah Service Commission.

Mr. Uttam Kr. De,
Ms. Jamuna Saha ... For Addition of Party.

The petitioner, in compliance with the direction passed on September 01, 2023 appears personally before this Court, further personal appearance of the petitioner is dispensed with for the time being.

The petitioner is an Assistant Teacher of M.S.D.U. Dogachia Senior Madrasah, Keshpur, District-Paschim Medinipur.

The petitioner responding to a notice issued by the West Bengal Madrasah Service Commission, has applied for general transfer.

The candidates who applied for such general transfer are required to upload Distance Certificate issued by the concerned B.D.O./Deputy Magistrate &

Deputy Collector/D.I. of Schools (S.E.) in the relevant portal.

The petitioner is claiming that at present, he is residing in the district of Howrah as such the concerned authority while issuing Distance Certificate should calculate the distance of the school from his residence at Howrah, not from his residence at Paschim Medinipore, as suggested by the school authority.

Mr. Uttam Kr. Bhattacharya, learned counsel for the school authority submits that the wife of the petitioner has approached the school authority with the allegation that the petitioner, to avoid her claim of maintenance, is seeking such transfer, he further submits that the petitioner by taking loan from the Teachers Credit Co-operative Society of the school, has constructed a house within three kilometers of the school, the school authority is apprehending they would face difficulty in realizing the loan amount in the event the petitioner's prayer for general transfer is allowed.

Mr. Biswaroop Bhattacharya, learned advocate for the petitioner, submits that the petitioner is not in default in payment of the loan amount, besides neither the said issue nor the allegation of non-payment of maintenance to the first wife and daughters is germane in deciding the prayer of the petitioner for general transfer. He further submits that

on dissolution of his first marriage, the petitioner has contracted his second marriage and is now living with his second wife and two children in the district of Howrah.

Fatema Begum, the first wife of the petitioner along with her two daughters is present in Court.

Mr. Uttam Kumar De, learned advocate appears on behalf of the said first wife of the petitioner and submits that his client has filed an application(CAN 01 of 2023) for her addition in the writ petition, he emphatically denies that the marriage of the petitioner with his client has been dissolved, he further submits that the petitioner is not maintaining his wife and two daughters, there is huge amount of arrear maintenance.

The dispute now has cropped up though transgresses the scope of the present writ petition but same needs to be addressed as the prayer of the petitioner for transfer has some collateral effect on the interest of his first wife and daughters born in the said wedlock.

To resolve the family dispute, mediation is a scientific mechanism, as such should be resorted at any stage of the proceeding, irrespective of its nature.

This Court, therefore to resolve the dispute between the petitioner and his first wife, appoints Mr. Probal Kr. Mukherjee, learned senior advocate and a trained Mediator to be assisted by Mr. Biswabrata Basu

Mallick, also a trained mediator. The fees of the Mediators shall be as per schedule. Parties shall supply copies of their respective pleadings to the mediators.

The department is directed to take appropriate steps.

Matter be placed before this Court after three weeks with mediation report.

The Madrasah Service Commission shall keep the application of the petitioner for general transfer pending till the disposal of the present writ petition.

Heard-in-part.

Parties to act on the server copy of this order downloaded from the official *website* of this Court.

(Biswajit Basu, J.)