

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

**Present-**

**The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member(A)**

**Case No. – OA 776 of 2022**

**Niren Malakar & Others - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No. and Date of order	For the Applicants	: Mr. M.N. Roy, Learned Advocates.
<u>02</u> 19.12.2022	For the State Respondents	: Mrs. S. Agarwal, Learned Advocate.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.II) dated 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

Mr. Roy submits that the impugned order passed by the Secretary of the Department still does not confirm to the relevant Notification. As per the Notification dated 22.02.2008, the power of the Governor can be delegated to any authority sub-ordinate to him. Mr. Roy contents that the new amended transfer order signed by the Secretary of the Department is not in-conformity with Section 3 of the 2008 Notification. Mr. Roy emphasises that such authority of the Governor is to be exercised by the head of the Department, in this case, the Principal Secretary. This point was also mentioned in a similar case of the Tribunal's order dated 18.08.2022 passed in OA 485 of 2022.

Mrs. S. Agarwal, learned counsel appearing on behalf of the State prays for accommodation so that the reply of the state with supporting documents will be submitted to the Tribunal. Mrs. Agarwal also prays for vacating the interim order.

Let the matter appear under the heading "Admission Hearing" on 08.02.2023. Reply, rejoinder, if any, in the meantime.

**SAYEED AHMED BABA**  
**Officiating Chairperson & MEMBER (A)**

H.S