

S/L. 2.
11.11.2019
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**Calcutta High Court
In The Circuit Bench At Jalpaiguri
Appellate Jurisdiction**

WPA 141 of 2019

Md. Kazi Mostofa Kamal Rabbani
Vs.
The State of West Bengal and others

Sk. Nizamuddin
... for the petitioner.

Mr. Debabrata Dhar, A. G. P.
Ms. Bedashruti Bose
...for the State

The petitioner has been found eligible for the post of Muslim Marriage Registrar and Kazi. However, his application was rejected after it was found during police verification that both the petitioner and his father have been charge sheeted for offences allegedly committed under Sections 420/468/472 of the Indian Penal Code.

The petitioner would rely upon well settled principle that a person is innocent until he is proved to be guilty. He relies upon a judgement of a Co-ordinate Bench of this Court dated 05.06.2015 being W. P. S. T. No.483 of 2010 (**Sudip Kumar Mondal Vs. State of West Bengal and another**) and the judgement of the

Hon'ble Supreme Court in the case of **Harendra Sarkar Vs. State of Assam reported in (2008) 9 SCC 204** has been relied upon.

This Court is in respectful disagreement with the views expressed by the aforesaid Co-ordinate Bench. The charges against the petitioner have resulted in a charge sheet and the trial is stated to be pending. The charges are indeed serious in nature i. e. misuse of the national emblem. fraud and cheating.

While it is true that the petitioner is still to be treated as innocent in law, it is equally true that the charge sheet is of a very serious in nature and he may be convicted.

It is therefore ordered that in the event the petitioner is honourably acquitted in the aforesaid criminal proceeding being G. R. Case No. 599 of 2011 arising out Kotwali Police Station Case No. 588 of 2011 dated 14.09.2011, he shall automatically be entitled to be considered for the post in course of any future recruitment and/or appointment process that may be initiated by the State

for appointment of a Muslim Marriage Registrar and Kazi.

It is also ordered that the aforesaid criminal proceeding which is now pending before the learned Chief Judicial Magistrate, Cooch Behar be disposed of as expeditiously as possible preferably within a period of six months from the date of communication of a copy of this order.

The District Registrar, Cooch Behar is personally present in Court. His presence is dispensed with. The records produced by him are returned herewith.

With the aforesaid directions, the writ petition is disposed of.

Photostat certified copy of this order, if applied for, be given to the parties on urgent basis.

(Rajasekhar Mantha, J.)