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2021

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
(via video conference)**

W.P.A. No. 3159 of 2020

**Md. Aminul Islam
Versus
The State of West Bengal and others**

Mr. Soumen Dutta,
Mr. Subhadeep Chatterjee.
...for the petitioner.

Mr. Krishnendu Bera,
Md. Hadiur Rahman.
...for the private respondent nos.4 and 5.

Mr. Subhendu Sengupta,
Mr. Sirsanya Bandyopadhyay.
...for the State.

The petitioner's contention is that the petitioner's name was recommended by the District Registrar, Birbhum for being appointed as a temporary MMR (Muslim Marriage Registrar) of Murarai Part-A (Block-1 area) Police Station in the district of Birbhum. It is submitted that, subsequently, an order was issued on March 13, 2020, thereby appointing two other persons, who were not recommended by the District Registrar, for the same post, in respect of Murarai Part A-I and Murarai Part A-II of MMR office.

Learned counsel appearing for the petitioner argues that the appointment has to be in consonance with Rule 3(b) of the MMR Rules, which provides that, in making temporary appointments, the District Registrar shall nominate a suitable person for each vacancy. The District Registrar's nomination shall be submitted to the Government by the Inspector General of Registrar; if she/he disapproves of the District Registrar's nominee, the IGR may recommend the appointment of any other candidate. A temporary licence, the said clause provides, shall then be issued to the candidate approved by the local Government.

Learned counsel for the petitioner further relies on a notification dated February 8, 2001 issued by the Judicial Department of the Government of West Bengal which stipulates that the jurisdiction of a Muslim Marriage Registrar (Sunni Community) shall be for one or more Police Stations of the Districts of West Bengal, as the Government may determine by Notification in Official Gazette. Hence, more than one candidate cannot be appointed as MMR of a single police station, counsel contends. It is thus submitted that the non-appointment of the petitioner as MMR for Murarai Part-A Police Station was contrary to the specific recommendation of the District Registrar and in contravention of the extant law.

Learned counsel appearing for the State-respondents argues that the notification of February 8, 2001 does not, in any way, prevent several persons being appointed as MMR in respect of a single Police Station. Such a bar cannot be read into the provisions of the notification. It is further argued that the present appointment of the different persons than the petitioner was in consonance with Rule 3(b) of the MMR Rules, since it is the local Government, as provided in such provision, which ultimately approves the appointment.

Learned counsel appearing for the private respondents, apart from adopting the arguments of the State, submits that the appointees, who are private respondents herein, were better qualified than the petitioner for the post, as evident from the recommended list, annexed at page 26 of the writ petition.

Even without going into the respective qualifications of the candidates, it is evident from Rule 3(b) of the MMR Rules that there are three stages of appointment of a person as a Muslim Marriage Registrar. The first stage comprises of the District Registrar nominating a person for the vacancy.

At the second instance, such nomination is to be submitted to the Government by the Inspector General of Registration who, in turn, has the discretion

to approve or disapprove such nomination. In cases where the IGR disapproves, she/he may recommend the appointment of any other candidate.

Only at the third stage, an approval is required by the local Government, which is the final authority with regard to such appointment.

In the present case, as such, the recommendation by the District Registrar, which is the primary plinth of the petitioner's case, could not be final and/or binding on the IGR and/or the Government. There was ample scope under the Rules for the IGR to disagree with the nomination and send a fresh nomination. Upon the State Government approving the nominees sent by the IGR, it was the discretion of the State Government to finally sanction/approve such appointment. If principles of natural justice have to be applied to the extent that each and every administrative action of the State has to be accompanied by detailed reasoning and prior hearing, the entire mechanism of administrative/executive functioning would come to a stand-still. Such nitty gritty of law cannot thus be imposed on each and every single appointment made by the State or with its approval.

In the circumstances, there was sufficient discretion on the part of the IGR as well as the State Government to disapprove of the nomination made by

the District Registrar and appoint someone else from the initial list of recommendations as Muslim Marriage Registrar for the concerned Police Stations.

As regards the argument of there being a bar to appointment of several persons as MMR of a single Police Station, the said argument is not borne out by the notification dated February 8, 2001. As rightly submitted by the learned counsel for the State, the proposition, that the jurisdiction of a MMR shall be for one or more Police Stations, cannot necessarily imply the converse proposition. It may very well be that, although a single MMR can be appointed in respect of several Police Stations, their jurisdictions may coincide as far as a single Police Station is concerned.

That apart, in the present case, two appointments have been given for two separate areas, one being Murarai Part A-1 and the other Murarai Part A-II, which negates such contention of the petitioner in any event.

Moreover, since the petitioner was not chosen as MMR for the concerned Police Stations, the petitioner cannot have any locus standi to challenge the alleged discrepancy in appointment of two persons for the same area, even if such appointment were to be assumed irregular.

In such circumstances, the present challenge fails.

WPA No.3159 of 2020 is dismissed without any order as to costs.

Urgent website certified copies of this order, if applied for, be given to the parties upon compliance of all formalities.

(Sabyasachi Bhattacharyya, J.)