

Court No. 22
05.8.2022
(Item No. 1)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 2280 of 2013

Md. Amir Ali
VS
The State of West Bengal & Ors.

Mr. Shamim Ul Bari
Mr. Raju Mondal
..... for the petitioner
Mr. Sudipto Panda
Ms. Munmun Tewary
..... For the State

This writ petition has arisen in respect of a selection process for the post of **Muslim Marriage Registrar** (for short, **MMR**) for the Police Station **Kolkata Leather Complex** (for short, **the Police Station**) which was initiated pursuant to a communication issued by the State dated July 12, 2011. The writ petitioner was an intending candidate who had applied for the said post on July 25, 2011 pursuant to the said notice. There were three candidates who applied for the same post and ultimately the successful candidate was the private respondent No. 7. The District Registrar, 4th respondent by his communication dated December 20, 2011 sought for an approval before the second respondent for appointment of a **Temporary MMR and Kazi** for the said Police Station. It appears from the said communication that, the names of the three

applicants were placed with their respective details required for such an appointment. It also appears from the said communication that all the said three candidates had the same experience under different Police Station though the name of the 7th respondent was nominated for the post and necessary approval was sought for his appointment.

After acquiring knowledge of the said communication dated December 20, 2011 seeking approval for the appointment of the 7th respondent, the petitioner by its letter dated December 23, 2011 raised and submitted an objection as to such selection of the private respondent, *inter alia*, pointing out that the private respondent did not qualify the criteria for such appointment. He was not a local resident and in support of such contention the petitioner had relied upon the necessary documents at pages 92, 93, 94, 55 and 58 of the writ petition. The writ petitioner also raised an objection on the ground that the private respondent did not have the requisite educational qualification namely, **Fazil**, as on the date of submitting his application for the said post, in support the writ petitioner relied upon the document annexed at page 6 of the supplementary affidavit filed with the leave of the Court affirmed on December 12, 2013. The said document showed that the private

respondent qualified and acquired the requisite educational qualification in the year 2013. At page 99 of the writ petition another mark sheet for the **Fazil Examination result, 2012** was annexed, wherefrom, it appeared that the remarks column bears a sign “**Cross**”, which according to the writ petitioner that, the private respondent did not qualify the **Fazil Examination in 2012** and had failed. It was submitted that on the basis of such document the application for the private respondent was approved.

Mr. Bari, learned counsel for the writ petitioner then referred to page 13 of the affidavit-in-opposition affirmed on January 24, 2019 for the 4th respondent and submitted that, this was an alleged Voter ID Card of the private respondent issued on July 7, 2014 showing an address of the local area for which the post was advertised. He submitted that in any event this document was much subsequent to the application submitted by the private respondent for his appointment. He then referred to page 8 to the said affidavit-in-opposition which was an order dated March 7, 2012 issued by the 4th respondent for appointment of the private respondent as a **Temporary MMR** within the jurisdiction of the said Police Station.

Ms. Munmun Tewary, learned State counsel appeared on July 29, 2022 and made her submission.

Series of affidavits of service on record were filed on behalf of the writ petitioner serving notice which upon the private respondent No. 7. Despite notices the 7th respondent chose not to appear repeatedly on any of the occasions, when the writ petition was taken up for hearing.

After hearing the learned counsel for the writ petitioner and on perusal of records it appears that, the objection of the petitioner dated December 26, 2011 at page 91 of the writ petition was not considered by the appropriate State authority. When an objection is raised by the writ petitioner before a State authority, it is the responsibility and bounden duty of such authority to dispose of such objection with a reasoned decision and to communicate the same to the objector. The writ petitioner has a right to know the fate of his objection with reasons. Keeping pending such objection since 2011, was nothing but an arbitrary exercise of power and discretion by the relevant State authority.

In view of the above, this Court is of the view that, justice will be sub-served if the appropriate State authority is directed to consider the objection of the

petitioner and comes to a reasonable conclusion with a reasoned decision.

Accordingly, the second respondent is directed to consider the objection of the petitioner dated December 26, 2011 at page 91 of the writ petition and also by taking into account the writ petition along with all its annexures filed by the petitioner before this Court as a composite representation of the petitioner after giving an opportunity of hearing to both the writ petitioner and the 7th respondent and shall come to a reasonable conclusion thereof with a reasoned order/decision. For this purpose the respondent No. 2 must give atleast seven days prior notice of hearing to the petitioner and the 7th respondent intimating the date and place of hearing.

The entire exercise, as directed above shall be carried out by the second respondent positively within a period of six weeks from the date of communication of this order. The second respondent thereafter shall communicate its reasoned order/decision to the petitioner and the 7th respondent within a further period of two weeks from the date of such reasoned order/decision to be passed.

It is made clear that, this Court has not gone into the merits of the writ petition in any manner.

The parties will be at liberty to urge all points before the second respondent.

On the above terms, this writ petition being **WPA 2280 of 2013** stands disposed of.

Mr. Bari, learned counsel submits that all the connected applications are already disposed of.

There shall, however, be no order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)