

WPA 25638 of 2017

Md. Akmal Hossain

vs.

State of West Bengal & Ors.

**Mr. Pramit Kumar Ray,
Mr. Sandeep Prasad Shaw,
Mr. Arjun Goopta.**

... for the petitioner

**Mr. Tapan Kumar Mukherjee, Ld. AGP
Mr. Somnath Naskar.**

... for the State

This is a writ petition whereby the initiation of process of appointment of 2nd Muslim Marriage Registrar (MMR) vide notification dated 25th August, 2017 from Shia community is questioned. In addition thereto challenge has also been thrown to the constitutionality of proviso to Section 3 of the Bengal Muhammadan Marriages and Divorces Registration Act, 1876.

Pursuant to the previous order passed by this Court on this writ petition today written instruction has been placed before this Court with regard to the process of appointment of 2nd Muslim Marriage Registrar under P.S. Bhagwangola, District-Murshidabad.

It appears from the reports submitted on behalf of the State-respondents that the process was initiated pursuant to the notification dated 25th August, 2017 and one A.B.S. Arefin has already been appointed as MMR in the concerned area vide letter dated 6th June, 2018.

Mr. Pramit Kumar Ray, learned senior advocate appears on behalf of the petitioner and submits that the petitioner has been under the impression that though the notification has been issued for appointment of 2nd MMR on 25th August, 2017 but such selection process has not been brought to logical conclusion in view of pendency of the present writ petition considering the averments made in the affidavit in opposition and supplementary affidavit affirmed on behalf of the State-respondents.

According to Mr. Ray it could well be brought on record at the time of affirming supplementary affidavit on 8th August, 2018 that the selection process has already been completed and a candidate has been appointed as Muslim Marriage Registrar vide letter dated 6th June, 2018. According to the petitioner such deceitful silence on the part of the State-respondents while making averments in the affidavits amounts to abuse of due process of law.

Considering the submissions made on behalf of the petitioner and the nature of prayer couched in the writ petition and also taking note of the appointment of 2nd Muslim Marriage Registrar in the concerned area it appears to this Court that the writ petition has become infructuous and accordingly the same stands dismissed.

However, this order shall not preclude the writ petitioner to challenge the selection process adopted by the State-respondents for appointment of 2nd Muslim

Marriage Registrar in the concerned area pursuant to the appointment notification dated 25th August, 2017. It is further made clear that all the points are kept open.

This Court deprecates the stand taken on behalf of the State-respondents while affirming supplementary affidavit as aforesaid since the appointment was already made vide letter dated 6th June, 2018; the same should have been brought on record while filing the supplementary affidavit and in the same breath this Court passes an order of caution that same practice if recur in future shall be seriously dealt with by this Court.

The report filed on behalf of the State-respondents is taken on record.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)