

5th June,
2023
(AK)
22-23

CPAN 294 of 2023
in
W.P.A 19105 of 2022

Piarul Hoque
Vs.
Sri Pradip Kumar Panja and others

Mr. Tushar Kanti Mukherjee
...for the petitioner.

Sk. Md. Galib
Mr. K.M. Hossain
...for the alleged contemnors.

Affidavits-in-opposition filed by the alleged contemnor nos. 2 and 3, as well as the affidavit-in-reply filed thereto by the petitioner, be kept on record.

Learned counsel for the alleged contemnors, by placing reliance on the affidavits-in-opposition filed by the alleged contemnors, contends that it was duly communicated to the petitioner that the petitioner had failed to produce relevant particulars and documents in compliance of the order which is under contempt.

Learned counsel places reliance on Rules 4 and 5 of the relevant Notification issued by the Government of West Bengal, Law (Judicial) Department (Registration) dated August 14, 1929 and submits that none of such particulars were produced by the petitioner along with his

application, for which the order of this court could not be complied with upon a proper consideration of the petitioner's application.

Learned counsel for the petitioner submits that Rule 3(b) of the said Notification of 1929 is to be applied in the present case.

As per the said Notification, it is argued, any person can be chosen as a Muhammadan Marriage Registrar, insofar as temporary appointment is concerned.

A perusal of Rule 3(b) of the said Notification indicates that the same provides that in making temporary appointments, the Permanent Committee need not be consulted. The District Registrar shall nominate a suitable person for each vacancy and such nomination shall be submitted to the Government by the Inspector-General of Registration who, if he disapproves of the District Registrar's nominee, may recommend the appointment of any other candidate. A temporary license shall then be issued to the candidate approved by the local Government.

On the other hand, Rule 4(a) deals with the qualifications of candidates for the post of Muhammadan Marriage Registrar and stipulates that such candidates must possess a sufficient acquaintance with the Arabic

language and Muhammadan Law of Marriage and Divorce and be of good moral character.

Rule 5, on the other hand, mandates that a certificate in that regard has to be furnished by the candidate, signed by two Muhammadan gentlemen of respectability and position.

That apart, the particulars which are to be produced along with an application for appointment as Muhammadan Marriage Registrar have also been stipulated in detail in Rule 5. The said Rule envisages at least fifteen items of particulars necessary for such purpose.

The argument of the petitioner that Rule 3(b) operates independent of the mandatory qualifications of candidates stipulated in Rules 4 and 5 cannot be accepted.

Rule 3(b) merely stipulates the procedure in making temporary appointment and does not mitigate the qualifications required for becoming a Muhammadan Marriage Registrar in the first place, be it temporary or permanent, in any manner.

In fact, even if the appointment is temporary, a Muhammadan Marriage Registrar is supposed to dispense with the same duties as in case of a permanent

appointee and, on such score, there cannot be a compromise on the qualifications of the candidates.

In the present case, a “Fazil Certificate” and other documents were produced by the petitioner. The first such above-referred document, it is submitted by the alleged contemnors, is equivalent to the Plus-2 certificate of other similar academic curricula.

As such, the same cannot be equivalent to the requirements of Rules 4 and 5 of the Notification of 1929. Hence, since the petitioner himself did not comply with the requirements of Rules 4 and 5 of the Notification dated August 14, 1929, it cannot be said that the alleged contemnors are guilty of any contumacious act in not deciding the application of the petitioner.

Hence, there is no occasion for this court to issue a Rule of Contempt.

Accordingly, CPAN 294 of 2023 is dismissed without any order as to costs.

It is, however, made clear that nothing in this order shall preclude the petitioner from filing a fresh application, along with necessary particulars and documents as required under Rules 4 and 5 of the Notification No.620-Regn.-14th August, 1929.

If such requirements are met and a proper application along with due particulars and documents are

filed by the petitioner within a month from this date, the alleged contemnors (respondents in the writ petition) shall comply with the order under contempt by deciding the same upon giving a consideration in accordance with law.

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

(Sabyasachi Bhattacharyya, J.)