

Ct. 05
Item No.10
28.03.2023
(Suvendu)

WPA 13099 of 2022

Md. Akmal Hossain
Vs.
The State of West Bengal & Ors.

Mr. Biswaroop Bhattacharya
Mr. Pratik Majumdar
.....for the petitioner

Mr. Samrat Sen, Ld. AAAG
Mr. Amitava Mitra
.....for the State

Mr. Pratip Kumar Chatterjee
...for the respondent no.8

The petitioner is aggrieved by an order dated 6th June, 2018 of the District Registrar, Murshidabad appointing the private respondent as the Temporary Muslim Marriage Registrar (MMR) under Rule 3(b) of the MMR Rules within the jurisdiction of Bhagwangola in Murshidabad. The appointment was made from the Shia Sect. on a temporary basis.

The petitioner, through learned counsel, says that the appointment was made in an arbitrary manner and on the basis of a specific recommendation made by the President, Murshidabad District of the ruling political

dispensation of the State. Counsel also points to a communication from the Joint Commissioner of Stamp Revenue, West Bengal of 3rd July, 2017 to the District Registrar, Murshidabad making a special request to send the applications along with the application of the private respondent.

Learned AAAG appearing for the State places the relevant sections of The Bengal Muhammadan Marriages and Divorces Registration Act, 1876 along with the Rules framed under the Act vide Notification of 14th August, 1929. Counsel submits that the Act read with Rules 9 and 17 would show that the general supervision and control of the working of the Act shall be vested in the Inspector General of Registration.

The private respondent is represented.

Upon considering the submissions made by counsel appearing for the parties and the material shown to the Court, there is little doubt that the impugned appointment of the private respondent may suffer from at least two counts.

First, whether the appointment, albeit made on a temporary basis, was actually made from the Shia sect of the Mohammedan community. The subsequent documents placed before the Court cast doubt on this aspect.

Second, whether the selection process is vitiated by the intervention of several functionaries of the ruling dispensation of the State who went out of their way to ensure the participation and selection of the private respondent to the concerned post.

Both these aspects are serious and require to be revisited by the Inspector General who is the authority to do so under Rule 17 of the Notification of 1929. The Inspector General shall take into account not only the two factors stated above but also whether a temporary appointment can continue without a permanent appointment being made by way of an open and transparent selection process. The present facts would show that the private respondent was appointed on 6th June, 2018 and the formal license was issued on 14th June, 2018.

WPA 13099 of 2022 is accordingly disposed of with a direction on the respondent no. 4 being the Inspector General of Registration to reconsider and revisit the impugned appointment including the issues stated above and come to a reasoned decision within three weeks from today. The petitioner and the private respondent shall be heard before the respondent no. 4 passes a reasoned order.

Needless to say, the order shall be made strictly in accordance with the provisions of the Act and the Notification of 1929. The reasoned order shall be made available to the petitioner within a week from the date on which such order is passed.

It is made clear that the private respondent shall cease to hold office from the date on which the decision is given, if such decision goes against the private respondent.

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

(Moushumi Bhattacharya, J.)