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29.08.2023
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 17851 of 2018

Bikash Kumar Hazra
Vs.
Union of India & Ors.

Mr. Koushik Dey,
Mr. Debnath Mahata
...for the petitioner

Mr. Siddhartha Banerjee,
Mr. Lakshminath Bhattacharyya,
Mr. Rajib Kumar Acharyya,
Mr. Banshi Badan Maity,
Mr. Anjan Bhandari,
Mr. Saptarshi Chakraborty,
...for the respondent no. 4

1. Learned counsel appearing for the petitioner submits that the petitioner was wrongly rejected as a candidate for becoming a Notary in respect of a particular area, whereas the private respondent was selected although the private respondent did not meet the criteria as stipulated in Rule 3(ab) of the Notaries Rules, 1956.
2. Learned counsel appearing for the private respondent submits that the petitioner did not qualify for the post while, on the other hand, the private respondent, although not practising as an advocate in a court of law during the relevant period after her enrolment, had been imparting legal advice.

3. Learned counsel appearing for the petitioner controverts such submission on the score that such averment has never been made at any point of time by the respondent no. 4.
4. Be that as it may, learned counsel for the private respondent has taken a more basic objection as to jurisdiction in view of Rule 8(3) of the 1956 Rules providing an alternative forum.
5. Rule 8(3) stipulates that an applicant whose application has been rejected, or allowed in respect of only a part of the area to which it relates, or against whom an order as to costs has been made under sub-rule (1) of Rule 8 may, within sixty days of the date of the order, apply to the appropriate government for reviewing the order and that government may, after making such further enquiry, as it thinks fit, pass such order as it considers necessary.
6. In the present case, there is scope of further enquiry in view of the factual aspects sought to be highlighted by both parties regarding the qualifications of the respective candidates.
7. As such, this Court does not want usurp the jurisdiction of the fact-finding authority, thereby also depriving the parties of one forum.
8. Accordingly, W.P.A. No. 17851 of 2018 is disposed of with liberty to the petitioner to approach the concerned appellate authority under Rule 8(3) of the

Notaries Rules, 1956 with the challenge against the petitioner's rejection as a candidate for being appointed as notary.

9. In the event the petitioner so approaches the said forum within a fortnight from date, it will be deemed that the time stipulated for filing such a challenge has been sufficiently complied with within the contemplation of Rule 8(3) of the 1956 Rules. In such case, the appellate authority shall decide all issues involved between the parties duly in accordance with law without being prejudiced in any manner by any of the observations made herein.
10. There will be no order as to costs.
11. Interim order, if any passed in the matter, stands vacated.
12. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)