

D/L. 9.
October 5, 2023.
MNS.

WPA No. 20225 of 2023

Sk. Ahmadulla
Vs.
The State of West Bengal and others

Mr. Anupam Kumar Bhattacharya,
Mr. Mritunjay Saha

... for the petitioner.

Mr. Somnath Ganguli,
Mr. Sukalpa Seal

...for the State.

1. Affidavit-of-service filed in Court today be kept on record.
2. Learned counsel for the petitioner contends that the petitioner was duly recommended for being appointed as a Muhammadan Marriage Registrar (MMR) under the Khejuri Police Station in the District of Purba Medinipur vide communication dated October 29, 2021 issued by the District Registrar, Purba Medinipur to the Inspector General of Registration & Commissioner of Stamp Revenue, West Bengal Directorate of Registration and Stamp Revenue.
3. However, since the said appointment was not finalized.

4. Meanwhile, a writ petition was preferred by the private respondent. Vide order dated June 29, 2022, a co-ordinate Bench of this Court directed the transfer of the private respondent to be made effective in the same police station area within an outer limit of seven weeks from the said date. Being aggrieved, the petitioner herein preferred an appeal against the said order. However, due to dearth of documents as the petitioner's application under the Right to Information Act, 2005 was pending, the petitioner withdrew the appeal.
5. It is submitted that subsequently the petitioner wrote several representations to the respondent authorities as to why the petitioner's recommendation as MMR for the said police station was not finalized.
6. Having got no response in that regard, the present writ petition has been filed.
7. Learned counsel for the respondent authorities places reliance on the order of the co-ordinate Bench dated June 29, 2022 and submits that in view of the said direction, the appeal against which was withdrawn by the

petitioner, the transfer of the private respondent has attained finality.

8. Learned counsel places reliance on Section 3 of the Bengal Muhammadan Marriages and Divorces Registration Act, 1876 (1876 Act), the proviso to which provides that no more than two persons shall be licensed to exercise the said function within the same limits and further that when two persons are so licensed to act within the same limits, the one shall be a member of the Sunni and the other of the Shia sect.
9. Upon a plain reading of the said provision, only one person can be appointed as MMR for a particular area, unless one of the persons is Shia and the other of the Sunni sect, in which case and only in which case two persons can be appointed as MMR for the same area.
10. In the present case, unfortunately for the petitioner, both the petitioner and the private respondent belong to the Sunni sect of Islam. Hence, the Statute does not provide any option for the petitioner to be appointed, in view of the transfer of the private respondent having already taken effect.

11. Learned counsel for the respondent authorities rightly submits that the situation might have been otherwise, if the petitioner continued to pursue his appeal against the order dated June 29, 2022.

12. Having not done so, the petitioner lost the right to reopen the order dated June 29, 2022 passed in WPA No. 11508 of 2022, whereby the private respondent was directed to be transferred within seven weeks from the said date. Since such transfer has already been effected before finalization of the recommendation to appoint the petitioner as MMR for Khejuri Police Station, nothing can be done in favour of the petitioner at this juncture.

13. In such view of the matter, WPA No. 20225 of 2023 is dismissed.

14. There will be no order as to costs.

15. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

