

February 1, 2023
Sl. No.18
Court No.1
s.biswas

MAT 1659 of 2022
With
CAN 1 of 2022, CAN 2 of 2022

Syed Md. Sajjad Hossain
vs.
The State of West Bengal and others

Mr. Kazi Sajjad Alam, Advocate
... for the appellant
Mr. Sk. Md. Galib,
Mr. Subhra Nag, Advocates
... for the State
Mr. Shuvro P. Lahiri,
Mr. Sk. Nizamuddin,
Ms. Barnali Gupta,
Mr. Rajesh Naskar, Advocates
... for the respondent No.7
Ms. Rajlakshmi Ghatak, Advocate
... for the added party in CAN 1 of 2022

By this intra-Court appeal private respondent No.7 in WPA 19767 of 2022 has challenged the order of learned Single Judge dated 16.09.2022, whereby the writ petition has been disposed of directing the respondent No.3 (Inspector General of Registration and Commissioner of Stamp Revenue) to take steps for appointment of a permanent Muslim Marriage Registrar and Kazi in the concerned district within the specified time.

Record reflects that the writ petition was filed with the plea that the post of permanent Muslim Marriage Registrar and Kazi in Haripal Police Station area in the district Hooghly was lying vacant and the present appellant was working on temporary basis on that post since 2001. It was further pleaded that the writ petitioner was eligible for appointment,

therefore a prayer was made to appoint the writ petitioner as Muslim Marriage Registrar and Kazi for Haripal Police Station area.

Submission of learned counsel for the appellant is that the appellant is now over-aged, therefore he cannot participate in the process of appointment on permanent basis therefore he should be allowed to continue up to the age of 68 years.

Similar is the submission of learned counsel for the applicant in CAN 1 of 2022, which has been filed by the similarly situated temporary appointees in other areas.

Learned counsel for the State referring to the provision of the Act and Rules has submitted that the appointment of the appellant is purely temporary and that permanent appointment is to be made by the Committee, therefore the learned Single Judge has rightly issued direction in this regard.

Learned counsel for the writ petitioner has also opposed the appeal.

We have heard the learned counsel for the parties and perused the record. Undisputedly, the appellant was appointed as Muslim Marriage Registrar and Kazi in Jangipara, Tarakeswar and Haripal Police Station areas on purely temporary basis on account of death of the permanent appointee Syed Nisar Hossain. His appointment was

made by order dated 06.08.2001, since then he is continuing on temporary basis.

The appointment of the Muslim Marriage Registrar is made in terms of the Bengal Muhammadan Marriages And Divorces Registration Act, 1876.

Learned counsel for the State has pointed out the Rules which have been framed under the above Act vide Notification No.620-Regn.-14th August, 1929. Rule 1 thereof provides for constitution of Five Members District Committee to advise Inspector General of Registration in regard to the selection of the candidates for appointment as Muslim Marriage Registrar. Rule 3(a) of the Rules provides for temporary appointment to carry on the work of the office on occurrence of the vacancy in the post and intimation of vacancy to the Inspector General of Registration for initiating the process for permanent appointment. Rule 3(b) indicates that while making temporary appointment the Committee need not be consulted. Therefore, temporary appointee is by a different process, which cannot be equated with the permanent appointment process.

Hence, the prayer of the appellant to continue the appellant till the completion of 68 years cannot be granted.

Since temporary appointment is continuing for last more than 20 years, therefore learned Single Judge has rightly directed the Inspector General of Registration and Commissioner of Stamp Revenue to take immediate steps for appointment of permanent Muslim Marriage Registrar. We make it clear that the appointment of Muslim Marriage Registrar will be in terms of the provision of the Act and Rules and as many such Registrars will be appointed as may be required in terms thereof. Hence, we find no reason to interfere in the order of the learned Single Judge. Since the applicant in CAN 1 of 2022 stands on the same footing as that of the appellant, therefore this order will also apply to them.

The appeal as well as the applications CAN 1 of 2022 and CAN 2 of 2022 are accordingly disposed of.

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

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)