

D/L.9.
April 9, 2024.
MNS.

WPA No. 4567 of 2023

Sk. Badre Alam
Vs.
The State of West Bengal and others

Mr. Soumen Kumar Dutta,
Mr. Subham Dutta

... for the petitioner.

Sk. Md. Galib

...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 applied for the post of temporary Mohammedan Marriage Registrar (MMR) for Dewandighi Police Station in the District of Purba Bardhaman.
3. The District Registrar, Burdwan, in compliance of the extant Rules, forwarded the recommendation to the Inspector General of Registration and Commissioner of Stamp Revenue (in short "IGR"), in turn forwarded it further to the State Government. However, till date no steps have been taken for issuance of temporary MMR licence to the petitioner.
4. Learned counsel places reliance on Annexures P/2 and P/3 in support of his

arguments regarding the above recommendations.

5. Learned counsel appearing for the State points out that in the 'Remarks' column of the recommendation by the District Registrar, the only grounds mentioned were references by the DR Burdwan, Khsetiya Gram Panchayat and a Member of the West Bengal Legislative Assembly (MLA).
6. In fact, it is seen that in the recommendation itself, there is a handwritten recommendation made by the said MLA. It is contended that the said premise of the recommendation itself vitiates the recommendation and as such, the same was rightly not acted upon.
7. It is further pointed out by learned counsel for the State that the IGR in his recommendation did not independently apply his mind at all. Rather, the recommendation was merely by way of a mechanical forwarding of the recommendation which came from the District Registrar. Hence, in view of qualifications of the candidates as stipulated in Rule 4(1) of the Bengal Mohammedan Registration and Divorce Rules, 1929 (1929 Rules) not being fulfilled, the petitioner is not eligible for the post of temporary MMR.

8. Learned counsel also places reliance on Item No. 14 in the form of an application as stipulated in Rule 5 of the 1929 Rules, which requires remarks of the Inspector General of Registration.
9. In the present case, the purported recommendation of the IGR does not contain any independent remarks, it is submitted.
10. There is substance in the contentions of the State that the recommendation, which finds place in the remarks column and the handwritten recommendation by the concerned MLA of the locality are most unwelcome and ought not to have been a part of the recommendation of the District Registrar, Burdwan.
11. The culture of such extraneous recommendations, in fact, is the breeding ground of corruption in the functions of any State.
12. Hence, it cannot but be said that the ground taken by the State to obstruct the recommendation is laudable. However, there are other factors to be considered in the present case.
13. We cannot lose sight of the forest for the trees. In the present case, the recommendation of the District Registrar also

carries underneath it a sentence that the petitioner applied for the post the first time and all his papers are duly verified and that he is an eligible candidate for the post of MMR (Sunni Sect) in the Dewandighi Police Station.

14. Hence, it *prima facie* appears from the recommendation of the District Registrar that political interference of State functionaries, having no authority in the present regard, was not the only premise of the recommendation, but the petitioner is also otherwise eligible on the qualifications as required, at least as per the opinion of the District Registrar.

15. Hence, although the recommendations by the MLA and different portfolio holders at various hierarchical stages of the Government are to be shunned, those *per se* do not take away from the petitioner the qualifications which he also otherwise has, if any. As such, even shorn of the said extraneous references, the District Registrar's recommendation cannot be faulted on the ground that the same indicated that the petitioner is otherwise eligible within the contemplation of Rule 4 of the 1929 Rules.

16. Insofar as the Inspector General is concerned, it would be much appropriate that his recommendation would carry a sentence or so more to reflect his independent opinion.

17. However, we cannot read into such administrative functioning the requirement, befitting courts of law or judicial or quasi-judicial authorities, of giving elaborate reasons. The recommendation *per se* indicates that the letter from the District Registrar, Burdwan, was received by the IGR along with other papers and on the basis of the same, the IGR recommended the name of the petitioner and forwarded the same to the appropriate authorities in the State.

18. Hence, it is for the State Government to consider now as to whether the petitioner, shorn of the unwarranted considerations, is otherwise eligible and fit to be issued a temporary licence of MMR for the concerned police station area.

19. In view of the above observations, WPA No. 4567 of 2023 is disposed of by directing the respondent no. 1 to consider the recommendation of the name of the petitioner forwarded by the IGR within a reasonable time, preferably within four weeks from date, and to take decision on the same.

20. The outcome of such consideration shall be intimated immediately thereafter to the petitioner.

21. There will be no order as to costs.

22. 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.)