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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 5192 of 2023

Nuhu Nabi Jamadar & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Ekramul Bari,
Mr. Syed Mansur Ali
...for the petitioners

Mr. Amal Kumar Sen, learned AGP,
Mr. Lal Moha Basu
...for the State

1. Learned counsel appearing for the petitioners argues that despite the petitioner no. 2 being otherwise eligible for getting appointed as Non-Official Marriage Officer (NOMO), having the requisite educational qualifications, the respondent-authorities rejected the petitioner no. 2's application on such count, lastly by the impugned order dated January 09, 2023, which, in a cryptic manner, gave the reason for such rejection to be non-compliance of Rule 4(1)(d) of the West Bengal Special Marriage Rules, 2010.

2. Learned counsel places reliance on the mark sheet/marks statement of the petitioner no. 2, annexed at page 29 of the writ petition, to substantiate such contention. The collective

annexures P-8, annexed at pages 36 and 36 of the writ petition, are also relied on, since those are internal communications between functionaries of the Government of West Bengal, which recognized the Senior Secondary Certificates issued by National Institute of Open Schooling (NIOS), from which the petitioner no. 2 passed out, to be equivalent to Higher Secondary Certificate issued by the West Bengal Council of Higher Secondary Education.

3. Learned counsel places reliance on an unreported judgment of this Court in *Gopa Sinha vs. The State of West Bengal & Ors.*, passed in *W.P.A. No. 13768 of 2023*, in support of this proposition.

4. Learned counsel appearing for the State submits that the Circulars and internal communications, relied on by the petitioners, specifically enumerate the National Institute of Open Schooling, *New Delhi*, to be recognized, whereas the expression “New Delhi” is absent from the certificate produced by the petitioner no. 2.

5. Learned counsel for the State places reliance on *Guru Nanak Dev University vs. Sanjay Kumar Katwal & Anr.*, reported at *(2009) 1 SCC 610*, where it was observed that equivalence is a technical academic matter and it cannot be implied or

assumed. Any decision of the academic body of the university relating to equivalence should be by a specific order or resolution duly published.

6. In the conspectus of the present case, the State does not oppose the veracity or validity of the annexures at pages 36 and 37 of the writ petition, which are communications made respectively by the Deputy Secretary to the Government of West Bengal and the Joint Secretary, School Education Department, Government of West Bengal, both of which attribute recognition to Senior Secondary Certificates issued by the NIOS. The sticking point is only to non-mention of the term “New Delhi” in the petitioner’s certificate.

7. However, a perusal of the certificate clearly shows that the same also enumerates the Government of India as the authority recognizing the same and NIOS has been mentioned as an autonomous institution under the MHRD (Ministry of Human Resources and Development), thereby clearly indicating that in all probability, the said certificate was issued by a University recognized by the Government of West Bengal in terms of the annexures at pages 36 and 37 of the writ petition. However, it is well-settled that this Court is not an expert, as held by the Supreme Court, to decide on the equivalence of technical academic certificates.

8. Thus, despite the Court being *prima facie* convinced that the petitioner no. 2 did produce a certificate from a recognized university, the matter is required to be reconsidered by the respondent-authorities in the light of the above observations.

9. Accordingly, W.P.A. No. 5192 of 2023 is disposed of by setting aside the impugned rejection of the petitioner no. 2's application for appointment as NOMO and directing the respondent no. 1, that is, the Secretary, Judicial/Law Department, Government of West Bengal to reconsider the application of the petitioner no. 2 in the light of the observations made above, by giving an opportunity to the petitioner no. 2 to substantiate his case that the university which issued the mark sheet to the said petitioner is a university recognized by the Government of West Bengal, in the light of the annexures at pages 36 and 37 of the writ petition and/or otherwise, if necessary verifying the authenticity of the petitioner's claim from the concerned recognized university.

10. Such exercise shall be concluded by the respondent no. 1 within a fortnight from the date of communication of this order to the said respondent without unnecessary delay.

11. Needless to say, in the event the petitioner no. 2 is found eligible for the post, the respondents shall

immediately commence appropriate proceedings for giving appointment to the petitioner, if otherwise eligible, in accordance with law.

12. There will be no order as to costs.

13. 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.)