

22. 30.01.2024
bd. Ct.15

WPA 10832 of 2019

Abdul Hai

-VS-

The State of West Bengal & Ors.

Mr. Rabiul Islam
Mr. Shamim-ul-Bari
Mr. Dyutiman Banerjee
Mr. Vishal Mallick ... for the petitioner.

Sk. Md. Galib
Ms. Tannishree Mukherjee ... for the State.

Mr. Sanjoy Saha
Mr. Lalratan Mondal
Ms. Sk. Kiran ... for respondent no. 5

Affidavit-in-opposition filed on behalf of respondent no. 5 and affidavit-in-reply filed on behalf of the petitioner are taken on record.

Matter relates to engagement of Muslim Marriage Registrar (MMR) from Shia Sect under Kashipur police station area in the district of South 24 Parganas. Petitioner complains of selection of respondent no. 5 for being engaged as MMR ignoring the recommendation made by the District Registrar South 24 Parganas in favour of the petitioner for being engaged as MMR under Kashipur police station as communicated vide memo dated 10th May, 2018 by the Inspector General of Registration and Commissioner of Stamp Revenue, West Bengal. Such recommendation communicated vide memo dated 10th May, 2018 is at page 16 annexure P-3 of the writ petition.

According to the petitioner, since he has been recommended by the District Registrar of South 24 Parganas, for being engaged as MMR respondent no. 5 ought not to have been selected and accorded approval for being engaged as MMR in connection with the aforesaid police station. It is also contended on behalf of the petitioner that as per norms the candidate has to be resident under Kashipur police station for being engaged as MMR but in the present case respondent no. 5 is not the resident under Kashipur police station and respondent no.5 has not applied for being engaged as MMR.

State respondents and respondent no. 5 are represented by learned advocates.

It has been submitted by the learned advocate representing the respondent no. 5 that recommendation made in favour of the petitioner does not confer indefeasible right in favour of the petitioner to be engaged as MMR excluding the right of other candidates who have applied. It is also submitted that the submission of the petitioner that respondent no.5 has not applied for being engaged as MMR is wrong and the same is denied.

State respondents are represented by Mr. Galib, learned advocate, who submits though approval has been accorded in favour of the respondent no. 5 for being engaged as MMR but the same has been kept in abeyance as it has been averred in the affidavit-in-opposition filed on behalf of the State respondents. However, it is submitted

that since rival claims have been laid on behalf of the petitioner and respondent no. 5 if, the issue is relegated to the competent authority the same can be considered in accordance with law.

Having considered the respective submissions made on behalf of the parties the writ petition is disposed of by directing the Secretary, Department of Law, Government of West Bengal being the added respondent to take a decision on engagement of MMR from Shia Sect in connection with Kashipur police station District- South 24 parganas, within a period of eight weeks from the date of communication of this order and to pass a reasoned order after granting opportunity of hearing to the petitioner and the respondent no. 5 or their representatives. The decision to be taken by the added respondent shall be communicated to the parties within one week thereafter.

However, it is made clear that this Court has not gone into the merits of the issue and all points are kept open to be adjudicated by the additional respondent.

Leave is granted to the learned advocate representing the petitioner to amend the cause title of the writ petition in course of this day and add Secretary, Department of Law, Government of West Bengal, as additional respondent.

Service of notice upon the added respondent stands waived since State respondents are represented by Mr. Galib, learned advocate.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)