

21.08.2024
Sl. No.66(ML)
srm

W.P.A. No. 16415 of 2024

Asma Begum

Versus

The State of West Bengal & Ors.

Mr. Soumen Kumar Dutta,
Mr. Subham Dutta,
Mr. Sk. Sayan Uddin

...for the Petitioner.

Mr. Sk. Md. Galib,
Mr. Abu Siddique Mallik

...for the State-respondents.

1. Affidavit-of-service is taken record.
2. The petitioner prays for appointment as a temporary Mohammedan Marriage Registrar (MMR) at Haripal. The authority rejected the prayer on the ground that the certificates of other reputed persons, did not adequately show that the petitioner had knowledge in Arabic. The petitioner admittedly does not have a qualification from any madrasah.
3. The learned Advocate for the State-respondents submits, on instruction, that the post of temporary MMR at Haripal is not vacant. The authority has already taken steps for appointment of permanent MMR within certain police stations in Hooghly but steps have not yet taken for Haripal. According to Md. Galib, Md. Sajjad Hossain is still holding the post of a

temporary MMR and the Rules provide that a temporary MMR will continue till a permanent MMR is appointed.

4. First and foremost, a direction has already been passed by a learned coordinate Bench and affirmed by the Hon'ble Division Bench directing the Government to immediately initiate processes for filling up the post of MMRs permanently. Thus, the State Government must take such direction seriously and ensure that all posts of temporary MMRs are now filled up by permanent persons, as the rules do not contemplate that the posts should be manned by temporary MMRs for years together.
5. The contention of Mr. Dutta, learned Advocate appearing on behalf of the petitioner, that by a letter dated July 11, 2019, Inspector General of Registration & Commission of Stamp Revenue, West Bengal wrote to the Secretary to the Government of West Bengal, Law Department that Md. Sajjad Hossain was not eligible to function as a temporary MMR as he was also holding a post of school teacher. The government was asked to create separate offices for Haripal and Jangipur and was requested from the end of Inspector General of Registration to invite fresh applications. It is contended that Md. Sajjad Hossain was allowed to continue despite such communication.

6. In any event, these issues cannot be decided by this Court.

There is already a direction of the Hon'ble Division Bench to fill up the post of permanent MMR in place of temporary MMR. The committee has been constituted and the matter is under process, but process for Haripal has not commenced. The appeal before the Hon'ble Division Bench was carried by Md. Sajjad Hossain whose prayer for being retained till his age of retirement was rejected. The direction was also in relation to Haripal. Surprisingly, steps have not yet been taken for filling up the post of permanent MMR within Haripal Police Station.

7. The authority could exercise jurisdiction to reject the candidature of the petitioner. However, the question which has now arisen is whether Md. Sajjad Hossain had resigned from one of his posts before continuing as a temporary MMR. These issues cannot also be decided in the writ petition, in the absence of Md. Sajjad Hossain.

8. The writ petition is disposed of with a direction upon the petitioner to serve a copy of this writ petition along with a server copy of this order upon the Inspector General of Registrar & Commissioner of Stamp Revenue, West Bengal and the question raised by the petitioner with regard to continuation of Md. Sajjad Hossain, and rejection of her

candidature, shall be decided by the said authority, upon giving an opportunity of hearing to all concerned.

9. There shall be no order as to costs.

10. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)