

August 1, 2024
Sl. No.12
Court No.9
s.biswas

WPA 18282 of 2024

Jesmina Khatun
vs.
The State of West Bengal and others

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

... for the petitioner

Mr. Wasim Ahmed
Mr. Sk. Md. Masud

... for the State

1. The writ petition has been filed challenging an order dated May 30, 2024 passed by the District Registrar, Birbhum. The order was passed pursuant to a direction of this court in WPA 13424 of 2024.
2. WPA 13424 of 2024 was filed by the petitioner alleging that although the petitioner had applied for appointment to the post of Muslim Marriage Registrar within the police station Mallarpur, the application of the petitioner had not been considered. The petitioner filed a representation, which was also not responded to.
3. Accordingly, a co-ordinate bench directed the District Registrar, Birbhum to consider the representation of the petitioner. The petitioner's representation was considered and the order impugned was passed by the authority, inter alia, holding that the respondent no.4 Ziasmullah Sk was a better candidate than the petitioner as he

had better knowledge of Arabic and muslim marriage and divorce.

4. It has been stated in the order that upon consideration of the candidature of all the 12 candidates, the name of the respondent no.4 was recommended to the Law Department, Government of West Bengal, through the Inspector General and the Law Department, Government of West Bengal accorded approval. Such appointment was made in terms of Rule 3 of the notification issued by the Government of West Bengal, Law (Judicial) Department (Registration).
5. Mr. Dutta, learned advocate for the petitioner submits that the reason why the respondent no.4 was selected, was vague and without specification. The petitioner has annexed a document which would show that she had adequate knowledge in Arabic. The petitioner assisted a Muhammedan Marriage Registrar earlier. Thus, when the rules required sufficient knowledge in Arabic and muslim marriage and divorce as the qualification, the authority was not empowered to select the candidate of their choice upon holding that the said person was better qualified. No specific qualifications, apart from knowledge in Arabic and in muslim marriage and divorce, had been prescribed by the rules. The

authority went beyond the rules and selected the respondent no.4.

6. Mr. Ahmed, learned advocate for the State, has handed over the entire bunch of documents relating to the selection process. It appears that 12 candidates applied. All their candidatures were considered. The candidature of respondent no.4 was found to be best in terms of educational qualifications. He had the following qualification, namely, Alim, Fazil, Kamil Honours, M.M., Diploma in Functional Arabic, Querat & Tajweed, Fazil-e-Dars-E-Nizami, Takhassus for Fiqh Hanafi, D.El.Ed. On the contrary, the petitioner's qualification was H.S. and the petitioner did have knowledge in Arabic, but the qualification of the selected person was much better.
7. The question is whether the writ court can interfere with the selection when the authority, upon consideration of the rules and the qualification of candidates who had applied, arrived at the conclusion that the person selected to be a temporary MMR was better qualified in the sense that he had a versatile and better educational qualification. The degrees and diplomas which the person had attained, were recorded in a tabular notesheet, at the time of consideration the candidatures. The self-assessment of the petitioner that she is a better

candidate than the respondent no.4, cannot be a ground for judicial review. The petitioner is required to prove that the respondents had acted contrary to the law and the decision making process was vitiated by either malice or fraud or arbitrariness.

8. This court does not find any reason to interfere. Rule 3 has been followed by the authorities. The ground that the respondent no.4 was better qualified and experienced, cannot be ignored and held to be an invalid and unreasonable ground for his selection. In any event, this is a selection of a temporary MMR, which is more or less done by the process of nomination amongst the candidates who apply. The petitioner approached this court earlier, on the ground that her candidature had not been considered. His Lordship had directed the authorities to consider her candidature. The authorities have complied with the order and have submitted records before this court which indicates that the most qualified candidate was selected. This court does not find any illegality in the selection process. The persons responsible for selection are entitled to form their opinion with regard to suitability of a candidate and also decide which candidate fitted the profile for the post of MMR.

9. Accordingly, the writ petition is disposed of.

10. All the parties are directed to act on the basis of the server copy of the order.

(Shampa Sarkar, J.)