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WPO/215/2024
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

MINATI HALDER
VS
THE STATE OF WEST BENGAL AND ORS

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 14th March, 2024.

Appearance:
Mr. Supratick Syamal, Adv.
. . .for the petitioner.

Ms. Jhuma Chakraborty, Adv.
Mr. Rahul Kumar Saha, Adv.
. . .for the State.

The Court: Affidavit-of-service, filed in court today, be taken on record. At the outset, an adjournment is sought on behalf of the State. However, since the matter was fixed at the top of the list on being mentioned on the ground of urgency, such adjournment is refused. The petitioner contends that previously a show cause notice was issued to the petitioner who is acting as Non-official Marriage Registrar. The petitioner gave a reply to the same but without deciding on the issue, the respondent authorities had stopped the use of the petitioner's biometric device, thereby in effect preventing the petitioner from acting as a Non-official Marriage Registrar.

Being aggrieved, the petitioner had preferred a writ petition being WPA 889 of 2024 which was decided on February 26, 2024 with a direction on the respondent no.2, that is, the Registrar General of Marriages to decide on the petitioner's clarification to the show-cause notice dated October 17, 2023 upon giving an opportunity of hearing and of production of documents to the petitioner.

It is contended that in contravention of the spirit of the said order, the respondents chose to issue a fresh show-cause notice dated March 7, 2024 on the self-same cause of action.

Upon hearing learned counsel, it transpires that it may or may not be that the fresh show-cause notice dated March 7, 2024 is designed to avoid the order of this Court dated February 26, 2024.

However, it cannot be denied that the respondent authorities can always choose to waive and/or give a go-bye to the previous show cause notice and to proceed to issue a fresh show cause notice.

The issuance of a fresh show cause notice, simpliciter, thus does not necessarily mean that the issuance was contumacious to avoid the order of this Court on the previous show-cause notice.

Moreover, it appears that the previous show-cause notice was extremely cryptic and as such the respondents may very well choose to issue the fresh

show-cause notice giving the exact details of the alleged offences committed by the petitioner.

As such, I do not find any necessity to interfere with the present show-cause notice.

However, the very fact of issuance of the subsequent show cause notice clearly denotes that the respondent authorities have waived their right to proceed on the previous show-cause notice dated October 17, 2023, which was the subject matter of WPA 889 of 2024.

As such, the act of the respondents in preventing the petitioner's access to a biometric device does not any longer have a valid basis to stand on.

Accordingly, WPO 215 of 2024 is disposed of without interfering with the impugned show-cause notice dated March 7, 2024 with the observation that by virtue of the issuance of such notice, the previous show-cause notice dated October 17, 2023 annexed at page 33 of the present writ petition stands waived.

The respondent authority shall immediately reactivate the biometric device of the petitioner by re-registering the same in the official portal to ensure that the petitioner can resume her functioning as Non-official Marriage Registrar. Such reactivation/re-registration shall be done within a week from date and shall be subject to the outcome of the fresh show cause notice.

Insofar as the fresh show cause notice is concerned, the time for the petitioner to file reply to the same is extended for a fortnight from date. The petitioner shall submit such reply to the said show cause notice within such time. Thereafter, the respondents shall give an opportunity of hearing to the petitioner and upon hearing the petitioner, shall decide on the outcome of the said consideration as early as possible, preferably within two months from date.

It is made clear that till disposal of the said consideration as directed above, the petitioner's biometric shall not be deactivated or deregistered on the allegations as made out in the show cause notice dated March 7, 2024.

No order as to costs.

Urgent certified website copy of this order, if applied for, be made available to the parties subject to compliance with the requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

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