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ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APO 58 of 2024
IA GA 1 OF 2024
THE REGISTRAR GENERAL OF MARRIAGES, WEST BENGAL
Versus
MINATI HALDER

BEFORE:
The Hon'ble JUSTICE TAPABRATA CHAKRABORTY
AND
The Hon'ble JUSTICE PARTHA SARATHI CHATTERJEE
Date : 3rd July, 2024.

Appearance :

*Mr. Swapan Banerjee, Adv.
Mr. Supratim Dhar, Adv.
Mr. Debattam Das, Adv.
...for the appellant*

*Mr. Supratick Syamal, Adv.
Ms. Minakshi Majumder, Adv.
...For the respondent*

The Court: The present appeal has been preferred challenging the order dated 14th March, 2024 passed in WPO 215 of 2024. Leave is granted to learned advocate appearing for the appellant to make necessary corrections in the cause title of the Memorandum of Appeal and the stay application.

Records reveal that the writ petitioner/respondent herein was appointed as a Non-Official Marriage Officer in the year 2000. By a notification dated

27th November, 2018, the competent authority notified that registration of marriage under the West Bengal Hindu Marriage Registration Rules, 2010 shall be done by electronic mode on and from 1st December, 2018. The respondent accordingly registered herself in the online portal. However, she was not permitted to avail of the biometric system by furnishing the biometric device. In the midst thereof, a show cause notice was issued to the respondent on 17th October, 2023. The respondent duly submitted a reply to the same on 25th October, 2023 but the same was kept in abeyance. Aggrieved thereby, the respondent preferred a writ petition being WPA 889 of 2024 which was disposed of by an order dated 26th February, 2024 directing the appellant no. 1 herein to decide on the writ petitioner's clarification to the show cause notice dated 17th October, 2023. However, without taking such decision, the appellant no. 1 issued a fresh show cause notice on 7th March, 2024. The same was again challenged in a writ petition being WPO 215 of 2024. The order passed in the said writ petition on 14th March, 2024 has been impugned in the present appeal.

Mr. Banerjee, learned advocate appearing for the appellants submits that having not interfered with the show cause notice dated 7th March, 2024, impugned in the writ petition, the learned Single Judge erred in law in directing immediate reactivation of the biometric device of the respondent by re-registering her name in the official portal to ensure that she can resume her functioning as Non-Official Marriage Registrar.

He argues that the issue of reactivation of biometric device was also urged by the respondent in the earlier round of litigation but such prayer was not considered and no direction for reactivation was issued. Such arguments, as advanced, were glossed over by the learned Single Judge and no finding was returned by the same.

Mr. Banerjee contends that the charges against the respondent are very serious and as such till a final decision is taken upon hearing the respondent in response to the show cause notice dated 7th March, 2024, the direction towards reactivation of the biometric device would have the effect of granting a premium to a person against whom there are serious allegations.

Mr. Shyamal, learned advocate appearing for the respondent, however, denies and disputes the contention of the appellants and submits that the respondent's right to livelihood is at stake. Though no order of suspension has been issued and no final decision has yet been taken on the second show cause notice dated 7th March, 2024, the appellants are illegally denying reactivation of the biometric device. The respondent cannot be made to suffer for the inaction on the part of the appellants.

We have heard the learned advocates appearing for the parties and considered the materials on record.

Indisputably, no order of suspension has yet been issued against the respondent. There is no finding of guilt against the respondent. The allegations contained in the second show cause notice have yet not been established.

Thus, at this stage, there can be no reason towards denial of reactivation. In the said conspectus, the learned Single Judge, in our opinion, rightly exercised discretion in favour of the respondent and directed the appellant no.1 to reactivate the biometric device of the respondent by re-registering the same in the official portal to ensure that she can resume her functioning as Non-Official Marriage Registrar.

The order impugned in the present appeal does not suffer from any infirmity, warranting interference of this Court.

Accordingly, the appeal and the connected application are dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(TAPABRATA CHAKRABORTY, J.)

(PARTHA SARATHI CHATTERJEE, J.)

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