

OD-4

WPO No. 934 of 2024  
IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
ORIGINAL SIDE

MINATI HALDER  
VS  
THE STATE OF WEST BENGAL & ORS.

BEFORE:  
The Hon'ble JUSTICE AMRITA SINHA  
Date : 6<sup>th</sup> November, 2024.

*Appearance:*  
*Mr. Raghunath Chakraborty, Adv.*  
*Mr. Supratim Dhar, Adv.*  
*...for the Petitioner.*

*Mr. Swapan Banerjee, Adv.*  
*Mr. Supratim Dhar, Adv.*  
*Mr. Debottam Das, Adv.*  
*...for the State Respondents.*

1. The order dated 1<sup>st</sup> August, 2024 passed by the Registrar General of Marriages, West Bengal is impugned in the instant writ petition.
2. The petitioner is a Non-Official Marriage Officer and Non-Official Hindu Marriage Registrar for Kakdwip, Namkhana, Sagar and Dholahat Police Station area. She was compelled to approach this Court on two earlier occasions when she was restrained from availing the biometric system for marriage registration. The Court directed the respondent authority to reactivate the biometric device of the petitioner by re-registering the same in the official portal so that the petitioner can resume her functioning. Such reactivation /re-registration was subject to the outcome of the show cause notice that was issued.

3. The appeal preferred by the Registrar General of Marriages, West Bengal against the order passed by the Hon'ble Single Judge stood dismissed vide order dated 3<sup>rd</sup> July, 2024. The petitioner was directed to appear for hearing on 10<sup>th</sup> July, 2024. The petitioner claimed to be unwell and sought for an adjournment. Further date of hearing was fixed on 29<sup>th</sup> July, 2024. The petitioner claimed to be unwell on the said date also but she engaged a learned advocate to represent her in the hearing.
4. Letter of the petitioner intimating her inability to attend the hearing personally and further informing that she will be represented by her learned advocate was received by the office of the Registrar General of Marriages on the date of the hearing i.e. on 29<sup>th</sup> July, 2024. A vakalatnama signed by the petitioner in favour of the learned advocate was submitted along with the communication of the petitioner.
5. The impugned order dated 1<sup>st</sup> August, 2024 mentions that neither the advocate attended hearing nor filed hazira. The impugned order, however, records that the letter of the petitioner along with medical prescription dated 27<sup>th</sup> July, 2024 was received in the office on 29<sup>th</sup> July, 2024.
6. On a perusal of the impugned order it appears that, the reply given by the petitioner on 30<sup>th</sup> April, 2024 to the show cause dated 7<sup>th</sup> March, 2024 was not considered at all. In fact, the Registrar

General took note of the alleged irregularities for the period from 13<sup>th</sup> July, 2024 to 29<sup>th</sup> July, 2024.

7. Show cause was issued to the petitioner in connection with the irregularities mentioned in the notice dated 7<sup>th</sup> March, 2024. The Registrar General ought to have considered the submission of the petitioner in accordance with the order passed by the Court in respect of the show cause notice dated 7<sup>th</sup> March, 2024. The authority, despite receiving the reply to the show cause notice, did not consider the same and passed order restraining the petitioner from performing duty taking into consideration her action for the period which was not mentioned in the show cause notice.
8. The consideration ought to have been restricted to the show cause notice and not beyond any period beyond that. If further irregularities on the part of the petitioner had been noticed by the authority, then further notice ought to have been issued. Taking punitive action against the petitioner without granting opportunity to the petitioner to defend her case for the subject period amounts to violation of the principle of natural justice.
9. The aforesaid conduct of the Registrar General of Marriages cannot be accepted. The same appears to be contrary to the direction passed by the Hon'ble Single Bench affirmed by the Hon'ble Appeal Court.

10. In view of the above, the Court is inclined to set aside the order dated 1<sup>st</sup> August, 2024 impugned in the instant writ petition. The impugned order is, accordingly, set aside.
11. The Registrar General of Marriages is directed to act in strict compliance of the order passed by the Court on 14<sup>th</sup> March, 2024 in WPO 215 of 2024 affirmed by the Hon'ble Division Bench on 3<sup>rd</sup> July, 2024 in APO 58 of 2024 IA GA 1 of 2024.
12. Till the aforesaid respondent acts in accordance with the order passed by the Hon'ble Court, the Registrar General of Marriages, West Bengal is directed to forthwith reactivate the biometric device by re-registering the same in the official portal to ensure that the petitioner can resume her functioning as Non-Official Marriage Registrar.
13. Prayer has been made by the learned advocate representing the authority for stay of operation of the order passed hereinabove. The said prayer is considered and out-rightly rejected.
14. Affidavit of service filed in Court today is taken on record.
15. The writ petition stands disposed of.
16. The instruction forwarded by the Registrar General of Marriages, West Bengal signed on 4<sup>th</sup> October, 2024 heavily relied upon by the learned advocate representing the authority be retained with the records.

17. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)

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