

N.22Sl
151/CL
28.11.25
Sl-318
Ct.551
(S.R.)

**WPA 1729 of 2025
With
CAN 1 of 2025**

**Habibur Rahaman
v.
The State of West Bengal & Ors.**

Mr. Pratip Banerjee
Mr. Munjel Alam
Mr. Purnankar Biswas ... for the petitioner.

Ms. Rajarshi Basu
Mr. Raja Ram Banerjee ... for the State.

Mr. Mukteswar Maity
Mr. S.M. Ismail
Ms. Monika Sarkar ... for the applicant in CAN 1 of
2025

1. This writ petition lays challenge to an order dated September 6, 2024 passed by the Special Law Officer and Ex-officio Deputy Secretary, Department of Law (the respondent no.2 herein) whereby the petitioner's application for being appointed to the post of Mohammedan Registrar/Muslim Marriage Registrar (hereafter "MMR") at Rampurhat has been rejected.
2. It is submitted on behalf of the petitioner that the order impugned requires interference inasmuch as the same fails to appreciate that the petitioner has sufficient acquaintance with Arabic language and Mohammedan law of marriage and divorce which fact was clearly supported by the two certificates

produced by the petitioner i.e. the certificates issued by the Headmaster, Hamdia High Madrasah and by the Madrasah Derul Union Jamuri.

3. It is further submitted that in view of the aforesaid certificates, the petitioner was clearly eligible to be appointed to the post of MMR. It is then submitted that when the Bengal Mohammedan Marriages and Divorces Registration Rules, 1929 (hereafter the “Rules”) do not require production of a certificate like *Alim*, *Fazil* etc., from any Madrasah for the purpose of assessing a person’s acquaintance (knowledge) in Arabic language and in Mohammedan Law of Marriage and Divorce, the Respondent could not have raised the standard for assessing the petitioner’s qualification and disqualified him.
4. It is also submitted that the petitioner had applied for appointment to the post of MMR on compassionate grounds and as such the respondents should have considered the petitioner’s case in the right earnest.
5. Learned Advocate for the State Respondents hands up to Court a copy of the instructions dated January 31, 2025 forwarded by the OSD and ex-officio Joint Secretary, Government of West Bengal to the learned Additional Government Pleader, Government of West Bengal and while relying

thereon he submits that the order impugned has been rightly passed. It is submitted that there was a representation objecting to the petitioner being treated as a local resident of Rampurhat which is an essential requirement for the said post.

6. He then invites the attention of the Court to the Disability Certificate (Annexure P-4 at page 25 of the writ petition) issued to the petitioner's father and submits that while the same shows that the petitioner's father suffers from hearing impairment (bilateral moderate SN hearing loss) and that his overall permanent physical impairment has been assessed at 45%, yet the case may not be one of total debilitation inasmuch as the certificate also indicates that the petitioner's father is "*likely to improve*" and reassessment of disability is recommended.
7. Heard the learned Advocates appearing for the respective parties and considered the material on record.
8. The relevant portion of the order impugned in the writ petition may first be noticed : -

"It further appears that Habibur Rahaman passed Higher Secondary Examination from the WBCHSE in Science stream (without Arabic language). He did not produce any Madrasah Certificate like Alim, Fazil etc. in support of his knowledge in Arabic and Muhammadan Law. However, he produced

certificates issued by the Headmaster, Hamdia High Madrasah, Head Madrasah, Madrasah and Secretary, Madrasah Derul Union Jamuri that he is acquainted in Arabic languages and Muhammadan law of marriage and divorce. As the qualification of Habibur Rahaman is not satisfactory for being appointed as an MMR, the proposal of the IGR, West Bengal for providing appointment to Habibur Rahaman on compassionate ground due to physical incapacitation of his father Md. Absar Ali cannot be considered.”

9. The order records that *“the qualification of Habibur Rahaman is not satisfactory for being appointed as an MMR”*. Since the petitioner’s case of being fully eligible for being appointed to the post of MMR hinges on the two certificates produced by him before the respondent authorities, it is important to first assess the worth of those certificates in the light of the Rules. Copies of the said two certificates have been produced before this Court by way of a supplementary affidavit.

10. The relevant portion of the Certificate issued by the Headmaster, Hamdia High Madrasah reads as follows: -

“He is acquainted with Arabic Language and the Mohammedan Law of Marriage and Divorce so far as I know”.

11. The relevant portion of the Certificate issued by the Madrasah Derul Union Jamuri reads thus:

“Arabic Bhasa jane abong arabite tahar joteshto knowledge ache”. (Transliteration)

12. Now Rule 4 of the Rules i.e. the Bengal Muhammadan Marriages and Divorces Registration Rules, 1929 (latest amendment whereof has been annexed at page 35 of the writ petition), reads as follows: -

“4. QUALIFICATIONS OF CANDIDATES – (1) Candidates selected for the post of Muhammadan Registrars shall possess a sufficient acquaintance with the Arabic language and Muhammadan Law of Marriage and Divorce and be of good moral character.

(2) Any candidate for whom canvassing is made amongst the members of the Permanent Committee either by himself or through others shall not be eligible for appointment.

(3) Candidates to be selected for the post of Muhammadan Registrars, shall be an Indian Citizen having permanent resident in the State of West Bengal. In selecting candidates, the Registrar, the Inspector-General of Registration, the Permanent committee, or the State Government as the case may be, shall give preference to the claims of local men of respectable character and suitable attainments”.

13. An examination of the two certificates in the light of the relevant Rules would at once lead to the inference that the petitioner does not possess the qualification prescribed by the Rules. Noticeably, the Rules require sufficient acquaintance with the Arabic language and Muhammadan Law of Marriage

and Divorce. None of the two certificates produced by the petitioner satisfies the standard.

14. To wit, the certificate issued by the Headmaster, Hamdia High Madrasah certifies that the petitioner is “*acquainted with Arabic Language and the Mohammedan Law of Marriage and Divorce*”. When the statute requires “sufficient acquaintance” with the Arabic language and Mohammedan Law of Marriage and Divorce, the certificate certifying that the petitioner has acquaintance of the same certainly cannot be considered as a document imparting eligibility to the petitioner.

15. Similarly, the certificate issued by the Madrasah Derul Union Jamuri does not refer to Mohammedan Law of Marriage and Divorce at all. Here again the petitioner’s sheet anchor fails to satisfy the twin requirement of sufficient acquaintance with the Arabic language and Mohammedan Law of Marriage and Divorce.

16. As already indicated, the order issued by the respondent no.2, which has been impugned in the present writ petition, records that “*the qualification of Habibur Rahaman is not satisfactory for being appointed as an MMR*”. Such conclusion cannot be said to be wholly unreasonable or implausible or impossible in the facts of the case at hand. The

conclusion of the respondents, in the facts of the present case, cannot be said to be one which could not have been taken by any person of normal prudence. The respondent's observation about absence of certificates like *Alim*, *Fazil* etc., does not, in the facts of the case vitiate the order since the ultimate conclusion, in the considered view of the Court does not deserve interference. In such view of the matter, a writ court should be loath to intervene.

17. It is settled law that a Writ Court is not a Court of appeal. A writ court interferes only when the set prerequisites for exercise of a highly prerogative writ jurisdiction are fulfilled which include cases where the decision impugned is shown to be either wholly without jurisdiction or absolutely illegal or utterly perverse or so unreasonable that no person of normal prudence would have reached. In the case at hand the authority concerned has applied its mind to the matter before it and has taken a decision.

18. As regards the petitioner's contention that the petitioner had applied on compassionate grounds, it is now well settled that although compassionate appointment is an exception to the general mode of appointment yet the same cannot be done by relaxing the requisite qualifications.

19. For all the reasons aforesaid, this Court does not find any reason to interfere with the order dated September 6, 2024. WPA 1729 of 2025 is dismissed without any order as to costs.
20. CAN 1 of 2025 is an application for addition of party. Since, WPA 1729 of 2025 has itself been dismissed, CAN 1 of 025 has become infructuous and the same is disposed of accordingly.
21. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)