

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION**

Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

WPA 2771 of 2024

With

CAN 1/2024 & CAN 2/2024

Md. Abdul Monayem

Versus

The State of West Bengal and Others

For the Petitioner	:	Mr. Rabilal Moitra, Ld. Sr. Adv. Mr. Golam Mostafa, Adv. Mr. Kazi Asif Iqbal, Adv. Mr. Asrafar Rahman, Adv.
For the Respondent No. 7	:	Mr. Surajit Samanta, Adv. Mr. Debojit Samanta, Adv. Mr. Habibur Rahaman, Adv. Ms. Sohini Samanta, Adv. Ms. Aparajita Bhowmick, Adv.
For the State Respondents	:	Mr. K. J. Yusuf, Ld. AGP Mr. Parikshit Goswami, Adv.
Heard on	:	16.07.2025
Judgment on	:	25.07.2025

Ajay Kumar Gupta, J:

1. The writ petitioner approached this Court challenging the order of suspension contained in Letter No. 34-L/LW/O/St./4M-08/2023 dated 08.01.2024, issued by the Principal Secretary, Government of West Bengal, thereby suspended the writ petitioner from functioning as the temporary Mohammedan Registrar in Beldanga Part – A, MMR Office within P.S.- Beldanga, District- Murshidabad until further order or till the conclusion of the Departmental Enquiry.

2. The sum and substance of this case, according to the petitioner, are relevant for the purpose of disposal of this case, are as under: -

2a. The petitioner was duly appointed as Muslim Marriage Registrar (MMR) in the year 2009 for Beldanga Police Station area, following a selection process in pursuant to a Notification being No. 331/JD/XIV/SC-20/01 dated 3rd April, 2007. The respondent no. 7, Md. Salim and another unsuccessful candidate Md. Nizam Uddin Sk. filed multiple writ petitions questioning the qualification, age discrepancy and validity of documents of the petitioner. Most of the writ petitions were decided against them.

2b. On 19.02.2010, the Inspector General of Registration & Commissioner of Stamp Revenue, W.B. (in short I.G.R.) passed an order in favour of the petitioner in pursuant to the order dated 08.01.2010 passed in W.P. No. 22734 (W) of 2009, holding therein that no substantive evidence brought on record to show any discrepancy in the age of the petitioner and all allegations, made by the respondent no. 7 and Md. Nizam Uddin Sk., were negated.

2c. Subsequently, the Beldanga Police Station area was bifurcated into two parts i.e. Part A and Part B by the concerned authority showing the several allegations. The writ petitioner was exerted pressure and compelled to accept such bifurcation vide order dated 08.11.2016. The present petitioner was given jurisdiction of Part A and Md. Salim Ahamed was given Part B.

2d. The petitioner has filed a writ petition being WPA No. 25090 of 2022 praying, *inter alia*, for cancellation of the said bifurcation and appointment of Md. Salim as Muslim Marriage Registrar of Beldanga, Part B. The said writ petition is still pending for adjudication. The respondent no. 7 started harassing the present petitioner after receiving copy of writ petition in different manner and again took the recourse of fraud and misrepresentation. He promoted one Abdulla

Memon, his nephew as Shia sect of Islam and filed a writ petition being WPA No. 6304/2023 in the month of March, 2023. The allegation in the said writ petition is as similar as earlier. Other writ petitions being W.P. No. 4985(W) of 2010, W.P. No. 5537 (W) of 2010 and W.P. No. 16640 (W) of 2010, filed by Md. Nizam Uddin Sk and the respondent no. 7, have been contested by the writ petitioner and those writ petitions were ultimately dismissed.

2e. During the pendency of the writ petitions being WPA No. 25090 of 2022 and WPA No. 6304 of 2023, the District Registrar, by a letter dated 20th March, 2023, asked the writ petitioner to appear before him on 23rd March, 2023 along with age proof documents allegedly in response to a fresh complaint, without supplying the copy of complaint to the petitioner. The petitioner appeared before him on 11.04.2023 with age proof documents (Admit Card) and other relevant documents and also submitted a letter of his advocate disclosing that on the self-same issue, the writ petitions are pending before the Hon'ble High Court. The same issue was earlier rather settled by the I.G.R. in pursuant to the order of the Hon'ble High Court. The District Registrar again without listening the contention of the writ petitioner issued another letter on 10.07.2023 asking the petitioner to appear on 20.07.2023. The petitioner duly appeared and submitted another Letter dated 15.07.2023 of his advocate and

requested the District Registrar not to proceed with the matter any further until disposal of the pending writ petitions. However, in utter surprise, on 28.01.2024, the petitioner received a Letter being No. 104/DR(MSD), dated 25.01.2024 issued by District Registrar, Murshirabad, whereby and whereunder it was disclosed that the departmental enquiry will be initiated on the basis of letter dated 17.01.2024 in terms of Rule 10 of the MMR Rules, 1929.

2f. At the same time, an order of suspension dated 08.01.2024 was issued to the petitioner by the Principal Secretary to the Government of West Bengal on the basis of an alleged inquiry and report. Hence, this Writ Petition.

3. The learned senior counsel, Mr. Moitra appearing on behalf of the writ petitioner submitted that the issue of discrepancy with regard to date of birth of the petitioner has been adjudicated by the Hon'ble High Court and settled by the IGR. Nevertheless, the Principal Secretary suspended his MM Registration, which is not permissible in law. His actual date of birth is recorded as 25.10.1979 in the Admit Card of the West Bengal Board of Madrasah Education Examination, held in the year 1999. On the basis of such admit card, He is possessing his Aadhaar Card, Ration Card and Pan Card etc.

4. Learned senior counsel further contended that the admit card of the West Bengal Board of Madrasah Education Examination, held in the year 1999 is equivalent to matriculation or Secondary Board of Examination, is the best and reliable evidence of an individual's date of birth for all purposes. The issue regarding date of the birth of the writ petitioner has already been decided by the IGR that there is no discrepancy.

5. Learned senior counsel also placed reliance upon judgments passed in the case of ***U.P. Madhyamik Shiksha Parishad & Ors. Vs. Raj Kumar Agnihotri***¹ particularly in paragraph no. 8 and ***Deputy Commissioner of Police, Special Branch & Ors. Vs. Bhupesh Chandra Karanjai & Anr.***² particularly in paragraph no. 20 to bolster his contention that the date of birth as recorded in the certificate of his having passed the High School or equivalent examination such as matriculation shall be deemed to be his correct date of birth or age for all purposes.

6. On the contrary, learned counsels appearing on behalf of the Respondent No. 7 and the State submitted in same gamut that the

¹ 2005 (11) SCC 465 : AIR 2005 SC 2491;

² 1993 (2) CLJ 74

writ petitioner has suppressed his actual date of birth and manipulated subsequently, different date of birth as 25.10.1979 while appearing second time in an examination i.e. the West Bengal Board of Madrasah Education Examination, held in the year 1999. Whereas, his actual age was recorded as 25.10.1969 in the record of earlier examination i.e. Alim Examination 1991 from Beldanga Darul Hadeeth Senior Madrasah. He did not pass the said Alim Examination in the year 1991, which is also equivalent to High School or Secondary Board of Examination or matriculation.

7. The respondent no. 7 has filed affidavit-in-opposition and produced two documents i.e. R.T.I. obtained from Beldanga Darul Hadeeth Senior Madrasah School and the Office of the West Bengal Board of Madrasah Examination. Those documents indicate two Dates of Birth of the petitioner as 25.10.1969 and 25.10.1979 respectively. The petitioner submitted two different dates of birth in two examinations held in the years 1991 and 1999. It is not at all permissible in law to change his date of birth while appearing subsequent examinations.

8. In addition, the respondent no. 7 also annexed in his Affidavit-in-Opposition, the certificate of the writ petitioner's son, Md. Masikul Islam of Village - Beldanga Majhpara, P.O. & P.S. - Beldanga,

District - Murshidabad (W) issued by Maulana Azad College, where he was pursuing Bachelor of Arts. His date of birth was recorded as 09.05.1986. This give rise to a serious anomaly, as it implies the petitioner would have become a father at the age of 7 years, if his date of birth accepted as 25.10.1979.

9. Considering the arguments and submissions of the learned counsels for the parties and upon meticulously perusal of the record, this Court is of the view that a person cannot have two dates of birth. One date of birth is recorded as 25.10.1979 in the West Bengal Board of Madrasah Education Examination, held in the year 1999 whereas another date of birth recorded as 25.10.1969 in the record of earlier examination i.e. Alim Examination 1991 from Beldanga Darul Hadeeth Senior Madrasah. He did not pass the said Alim Examination in the year 1991 which is equivalent to matriculation or Secondary Board of Examination and, subsequently, appeared in the equivalent examination conducted by the West Bengal Board of Madrasah Education in the year 1999, using a different date of birth i.e. 25.10.1979.

10. It is trite law that the birth certificate, issued by the office of the Registrar of Births and Deaths or the municipal authority or any authority empowered under the Registrar of Births and Deaths Act,

1969 or matriculation certificate are generally considered as the primary and conclusive proof of an individual's date of birth for all official purposes. A person cannot have two different dates of birth in official records. It is an admitted fact that the writ petitioner himself signed the forms before appearing in the aforesaid examinations, so he is responsible for such entries in his forms.

11. In course of hearing, learned counsel contended that the earlier date of birth recorded as 25.10.1969 was due to inadvertent mistake but this Court is unable to accept such contention in absence of specific pleading and as no step was taken by the writ petitioner for correction of such inadvertent mistake before any authority prior to appearance of subsequent examination.

12. In course of inquiry, the District Registrar got corroborative evidence in the records of Hareknagar Primary School, the date of birth of the writ petitioner is recorded as "02.11.1969", in the records of the Beldanga Darul Hadeeth Senior Madrasha his date of birth is recorded as "25.10.1969" and in the records of the Bharatpur Senior Madrasha his date of birth has been recorded as "25.10.1979". The writ petitioner was given opportunity of hearing but he gave evasive reply citing pendency of the writ petitions before the Hon'ble High

Court, Calcutta though there is no Stay Order in the said writ petitions.

13. In such circumstances, the Principal Secretary rightly exercised administrative authority in suspending the petitioner following departmental inquiry. Moreover, this Court finds that the earlier writ petitions filed by the respondent no. 7 and Md. Nizam Uddin Sk. bereft of corroborative evidence or any supporting evidences relating to their allegations. In contrast, in the present case, it includes a clear response to an RTI Application reply from the Secretary, West Bengal, West Bengal Board of Madrasah Education dated 04.10.2012 which confirms that the petitioner appeared in the Alim Examination in the year 1991 and his date of birth was recorded as 25.10.1969 and again appeared on the same examination in the year 1999 but with a different date of birth recorded as 25.10.1979. This clearly established that the petitioner is the same individual, who appeared in the examination stating two different dates of birth in the record, which is prima facie illegal. Producing a false certificate is grave misconduct that justifies suspension and departmental inquiry. Moreover, the judgments relied by the learned senior counsel representing the petitioner are not applicable in the present facts and circumstances of this case.

14. Consequently, this Court is of the considered view that there is no sufficient or cogent reason to call for any interference with the suspension order issued by vide Order No. 34-L/LW/O/St./4M-08/2023 dated 08.01.2024. Accordingly, the writ petition has devoid of merit and, hence, is liable to be dismissed.

15. In the light of above observations, **WPA 2771 of 2024** is **dismissed** without any order as to costs. **CAN 1 of 2024** and **CAN 2 of 2024** are also, thus, disposed of.

16. Interim order, if any, stands vacated.

17. All parties shall act on a server copy of this judgment uploaded from the official website of High Court at Calcutta.

18. Urgent photostat certified copy of this judgment, if applied for, is to be given to the parties on priority basis on compliance of all legal formalities.

(Ajay Kumar Gupta, J)