

**In The High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 30053 of 2024

**Md. Hasibur Rahman Khan
-versus
The Governor of the State of West Bengal &
Ors.**

**Mr. Kallol Bose.
Mr. Arunava Ganguly.
Mr. Samik Sarkar.
...For the Petitioner.**

**Mr. Sobhan Majumdar.
Mr. Asis Dutta.
...For the respondent no. 6.**

**Mr. Sirsanya Bandopadhyay.
Mr. Shamim ul Bari.
Mr. Kanai Lal Mondal.
... For the State.**

1. The order dated 9th December, 2024 passed by the Special Law Officer & Ex-officio Deputy Secretary (Law) cancelling the license issued in favour of the petitioner as Muslim Marriage Registrar is impugned herein.
2. It has been submitted that the said order was passed without affording any opportunity of hearing to the petitioner.
3. It appears that steps were taken by the respondent authority in compliance of the direction passed by this Court on 24th July, 2024 in the writ petition filed by the private respondent being WPA 14733 of 2018.
4. In the said writ petition, the Court directed the authority to take steps in furtherance to the

communication made by the Secretary, Finance Department and Inspector General of Registration and Commissioner of Stamp Revenue dated 8th February, 2016 where proposal was made for cancellation of the license issued in favour of the petitioner as the same was obtained upon concealment of facts.

5. The petitioner stresses upon the fact that he is a permanent resident of Dhaniakhali where he is acting as the Muslim Marriage Registrar.
6. It has been contended that the enquiry report relied upon by the authority to ascertain the residential address of the petitioner was not forwarded to him. The enquiry was conducted behind his back.
7. Prayer has been made to set aside the impugned order.
8. Learned advocate representing the private respondent submits that the copy of the enquiry report and all other documents in support of the submission that the petitioner is not a resident of Dhaniakhali were annexed to the earlier writ petition which was served upon the petitioner. The petitioner chose not to contest the said writ petition and after order was passed by the Court directing the authority to take steps in furtherance to the proposal for cancellation of license, the petitioner has approached this Court.
9. It has been argued that the petitioner is a resident of Haripal Police Station and the same evident from the voter's list of Haripal Police Station jurisdiction.
10. Learned counsel representing the State respondents submits that the authority has taken steps in terms of the direction passed by the Court. The petitioner at present challenges the order passed by the respondent authority cancelling his

license and trying to undo whatever has been done in compliance of the Court's order.

11. It has been submitted that a provisional license has been issued in favour of the private respondent for conducting the Muslim Marriages.
12. Upon hearing the submission made on behalf of all the parties and on perusal of the materials on record, it appears that the petitioner was not diligent enough to contest the earlier writ petition filed by the private respondent where he was impleaded as a party despite service of notice and the writ petition upon him. Only after the authority took steps to cancel his license, he has approached this Court for relief.
13. The petitioner has annexed the EPIC to show that he is a resident of Dhaniakhali. The voter's list annexed to the writ petition suggests that he is a resident of Haripal Police Station. These factual issues are required to be ascertained by the authority. The writ court is not the competent forum to adjudicate factual issues.
14. Admittedly, it appears that the petitioner never availed of the opportunity to represent himself either before this Court or before the authority.
15. Though it does not appear that there has been violation of the principle of natural justice as the petitioner voluntarily chose not to contest the previous writ petition but as the petitioner was not heard and he asserts that he has documents in support of his residential address, accordingly, the Court is inclined to grant one opportunity to the petitioner to prove his residence.
16. In view of the above, the instant writ petition is disposed of by directing the respondent no. 3 being the Special Law Officer & Ex-officio Deputy Secretary (Law) to give a further opportunity of

hearing to the petitioner and the private respondent and permit both the parties to present documents in support of their respective stand.

17. A decision shall be taken by the said authority in accordance with law at the earliest but positively within a period of eight weeks from the date of communication of this order.
18. The provisional license issued in favour of the private respondent may not be interfered with by the authority at this stage.
19. In the event it appears that the petitioner is able to prove that he was a resident of Dhaniakhali on the date of the advertisement for selection of MMR, then necessary consequential steps shall be taken by the aforesaid respondent.
20. The writ petition stands disposed of.
21. Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)