

IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

W.P.A. No. 20391 of 2025

Sk Salman Ali

Vs.

State of West Bengal & Ors.

Mr. Samim Ahammed

Ms. Ambiya Khatun

Mr. Nasirul Haque

Mr. Arka Ranjan Bhattacharya

Ms. Sabnam Mostari

....For the Petitioner.

Mr. Ansar Mandal, Ld. AGP

Mr. Tanweer J. Mandal

.... For the State.

Hearing Concluded On : 09.02.2026

Judgment On : 25.02.2026

Krishna Rao, J.:

1. The petitioner has challenged the Notification No. 610-L/L W/O/St./4M-14/2022 (Part-1) dated 3rd June, 2025, wherein and where under the private respondent is appointed as Muslim Marriage Registrar (MMR) under the area of Haripal Police Station, District-Hooghly.
2. The District Registrar, Hooghly, published a notice for permanent appointment of Muslim Marriage Registrar (Kazi) for the area under the jurisdiction of Jangipara/Haripal Police Stations in the District of Hooghly. Accordingly, the petitioner has applied for the said post.
3. The petitioner was called for interview and has appeared before the Interview Board on 15th January, 2025. The petitioner secured the highest marks of 4.125, and the name of the petitioner was placed at Serial No.1 in the final merit list prepared for the area of Haripal Police Station. The District Registrar, Hooghly, has prepared another final list for Jangipara Police Station and in the said final list, name of one Abdur Rouf Haldar was in Serial No.1.
4. After preparation of the final merit list, the District Registrar, Hooghly, has forwarded both the final merit lists to the Inspector General of Registration and Commissioner of Stamp Revenue, West Bengal along with the recommendations of the Committee.

5. On 3rd June, 2025, the respondent no. 3 has issued Notification No. 610-L/LW/O/St./4M-14/2022 (Part-1) by appointing the private respondent as Muslim Marriage Registrar in respect of the area under P.S. Haripal, Hooghly, though the name of the private respondent is appearing at serial no. 3 of the merit list. The respondent no.3 issued another notification by appointing one Mr. Abdur Rouf Haldar as Muslim Marriage Registrar, whose name was appearing at serial no.1 in the merit list under the jurisdiction of P.S. Jangipara.
6. The petitioner being aggrieved with the appointment of the private respondent, made a representation to the Principal Secretary, Law Department, Government of West Bengal. On receipt of the representation, the Law Department had sent a reply rejecting the claim of the petitioner on the ground that the State Government has exercised its discretion under Rule 3(a) of the Bengal Muhammadan Marriages and Divorces Registration Rules, 1929, to appoint the private respondent as the private respondent is having experience as Kazi.
7. Mr. Samim Ahammed, Learned Advocate representing the petitioner submits that upon rejection of the candidature of the petitioner and appointment of the person, whose name was appearing at serial no.3 in the merit list, the petitioner has applied for the information under the Right to Information Act, 2005. On receipt of information, the petitioner came to know that the District Selection Committee upon consideration of the candidature of 18 candidates, prepared a final merit list and the

name of the petitioner was placed at serial no.1 in respect of P.S. Haripal.

- 8.** Mr. Ahammed submits that the Inspector General of Registration, West Bengal, acting in terms of Rule 3(a) of the Bengal Muhammadan Marriages and Divorces Registration Rules, 1929, forwarded the name of the petitioner as the first recommended candidate. He further submits the Law Department officers at various levels, upon scrutiny, endorsed the recommendations and recorded that there was no impediment in appointing the petitioner.
- 9.** Mr. Ahammed submits that ignoring the recommendations of the statutory authorities, the then Minister-in-Charge, Law Department by a note dated 27th May, 2025, deviated from the merit list and appointed the private respondent, who was in serial no. 3 of the merit list.
- 10.** Mr. Ahammed submits that the Minister-in-Charge, Law Department has taken into consideration that the private respondent was earlier appointed as Kazi of Haripal Police Station under Section 2 of the Kazis Act, 1880, and considered to have acquired “experience” in marriage registration related work.
- 11.** Mr. Ahammed submits that such deviation from the statutory process of selection and the supersession of the petitioner’s candidature despite being first in the merit list and also recommended by the authorities is de hors the Rules and actuated extraneous considerations.

- 12.** Mr. Ansar Mandal, Learned AGP, representing the respondent authorities submits that Minister-in-Charge, Law Department, taking into special consideration the experience of the private respondent in performing the functions of Kazi of Haripal Police Station area, to which he was earlier appointed under Section 2 of the Kazis Act, 1880, has been appointed as Muslim Marriage Registrar under the Haripal Police Station.
- 13.** Mr. Mandal submits that the work of Kazi has close proximity with the work of that of an MMR in any specific area and it can be obviously be presumed that the private respondent has gained considerable experience and possess sufficient acquaintance of Muhammadan Law of Marriage and Divorce in reference to sub-rule (1) of Rule 4 of the Rules of 1929 and therefore, he was selected as MMR in Haripal P.S.
- 14.** Mr. Mandal further submits that under sub-rule (a) of Rule 3 of the Rules of 1929, it is clearly provided that the Government may select one out of the three names or for any special reason, may select any other from the rest of the candidates. He submits that three names have been received from the office of the Inspector General of Registration, West Bengal and on special reason, the private respondent was appointed as MMR of Haripal P.S.
- 15.** This Court by an order dated 28th October, 2025, raised two issues:
- (i) *Whether the recommendation of the Minister-in-Charge could have been given so much of weight for providing appointment to the private respondent*

despite the private respondent obtaining far less marks than the first recommended candidate?

(ii) Whether the act of functioning as Kazi can be treated to be special reason for recommending appointment of the private respondent as Muslim Marriage Registrar?

- 16.** Upon the said issues, the respondent authorities have filed report. The respondents have referred to Clause 1.6 of Chapter 1 of the West Bengal Secretariat Manual, 2019 and submit that each department is assigned to the charge of a Minister or Ministries and consists of Secretary, other Group–A Officers and subordinate staff. It is submitted that in the hierarchy of the State Government Department, the Minister-in-Charge of a Department is higher than that of a Secretary of the Department in respect of decision-making process. He submits that in the present case, the issue with regard to appointment of MMR was placed by the Principal Secretary to the Minister-in-Charge of the Law Department for his decision. The Principal Secretary has placed the file before the Minister-in-Charge for his decision. The Law Department has taken decision for appointment of the private respondent as MMR taking into consideration that the private respondent is already performing duties of Kazi. It is further submitted that Minister-in-Charge is the Head of the Department for performing the business and affairs of the particular department.

- 17.** Procedure for selection of candidates for Muhammadan Registrarship in the Districts other than Calcutta is prescribed in Rule 3 (a) of the Notification dated 14th August, 1929, which reads as follows:

“3. (a) PROCEDURE FOR SELECTION OF CANDIDATES FOR MUHAMMADAN REGISTRARSHIP IN DISTRICTS OTHER THAN CALCUTTA.- On the occurrence of a vacancy in the post of a Muhammadan Registrar or on the creation of a new office in any district other than the district of Calcutta, the Registrar shall at once make a temporary appointment to carry on the work of the office, intimate the vacancy to the Inspector-General of Registration and invite applications for the permanent post. Applications may also be received by Inspector-General of Registration but on receipt he should forward them to the Registrar of the district concerned. The Registrar will, then send to the Inspector-General of Registration all the applications for the post after recommending in order of preference the best four of the applications and merely nothing on the others “not recommended”. On receipt of the applications, the Inspector-General of Registration will ask the Permanent Committee to consider them along with his remarks and the remarks of the Registrar, as the case may be, and submit their recommendations to him putting forward three names for each vacancy in order of preference. He will then communicate the recommendations to Government who may select one out of these, three names or, for any special reason, may select any other from the rest of the candidates.”

- 18.** As per recruitment notice, the essential qualification is acquaintance with Arabic Language and Muhammadan Law of Marriage and Divorce. The petitioner is having the qualification of:

- (i) Alim from WBBME
- (ii) Fazil from WBBME
- (iii) Kamil from Aliah University

- (iv) MM from Aliah University
- (v) B.Ed. from WBUTTEPA
- (vi) IFTA from WBUB
- (vii) Vocational Education from WBSCVET.

19. Five (5) persons have recommended the name of the petitioner for appointment as MMR and the petitioner has obtained 4.125 marks and his name was placed in Serial No.1 in the final merit list.

20. The private respondent is having the following educational qualifications:

- (i) Alim from WBBME
- (ii) HS from WBCHSE
- (iii) Fazil from WBBME
- (iv) Kamil from Aliah University
- (v) MM from Aliah University
- (vi) B.Ed. from WBUTTEPA
- (vii) Mufti from Jamia Salmania
- (viii) Vocational training from WBSCVET.

21. The private respondent has obtained 2.375 marks and only three (3) persons have recommended the name of the private respondent and his name was placed at Serial No. 3.

22. The petitioner has obtained higher marks and all the authorities have recommended the name of the petitioner to be appointed as Muslim Marriage Registrar under the Haripal Police Station. The Minister-in-

Charge overturned the recommendations of the authorities and recommended for appointment of the private respondent on the ground that the private respondent has gained considerable experience in Muhammadan Marriage Registration work as the private respondent is appointed as a Kazi in exercise of power conferred under Section 2 of the Kazis Act, 1880 and the said work is in close proximity with the work of MMR.

- 23.** The recommendations of the authorities for appointment of the petitioner as permanent MMR reads as Follows:

*“Subject matter is related to appointment of **permanent MMR** in respect of Haripal Police Station area under Hooghly District. According to the report submitted by DR Hooghly it is evident that Permanent committee formed for recommendation for appointment of permanent MMR has recommended the name of **Sk. Salman Ali**, S/o Sk. Kuddus Ali of Tajpur, Morah under Haripal in the District Hooghly as the first candidate for consideration of such appointment as he is the applicant who stays in the local Jurisdiction in the Haripal P.S. area, bears good moral character, possess Arabic & Urdu knowledge and also knowledge of Muslim Marriage Regn. Law & Divorce Regn. Law with a qualification of Alim, Fazil, Kamil, M.M. with Arabic.*

*District selection committee has made a consolidated list of 3 (three) candidates namely (i) **Sk. Salman Ali** (ii) **Md. Riyajul Islam** & (iii) **Sk Amirul Islam** for the appointment of permanent MMR under Haripal Police Station area in the district of Hooghly in order of preference and out of above three (3) candidates, the name of Sl. (i) Sk. Salman Ali has been recommended for the post of permanent MMR.*

In this perspective, the D.R.’s report with all its enclosures may kindly be sent to the Law Dept

with a recommendation in favour of Sk. Salman Ali for Haripal P.S. area in the District of Hooghly.”

- 24.** The Principal Secretary (Law) has recommended the name of the petitioner, which reads as follows:

“It appears that both the candidates selected as “Number One” in respect of Haripal and Jangipara are local residents and they reportedly bear good moral character and possess knowledge in Arabic and in law of Muslim Marriage and Divorces. It further appears that both of them are having the qualification of Alim, Fazil, Kamil and MM with Arabic. Accordingly, there is no reason to disagree with the recommendation of the District Registrar, Hooghly and the District Selection Committee.

In my opinion, there is no impediment to accept the recommendation as stated above forwarded by the IGR Vide Note No.41.

Now, the matter is placed before the Hon’ble MIC for his kind perusal and also for necessary approval.”

- 25.** As per Rule 3(a), the Minister-in-Charge has considered the case of the private respondent on the ground that the private respondent is appointed as Kazi, work of Kazi has close proximity with the work of MMR and has gained considerable experience in Muhammadan Marriage registration related work.
- 26.** Rule 3(a) provides that *“Government, who may select one out of these, three names or, for any special reason, may select any other from the rest of the candidates”.*

- 27.** The Committee has forwarded three (3) names by recommending the name of the petitioner as the petitioner has obtained 4.125 marks and his name is placed at Serial No.1. The name of the private respondent is placed at Serial No.3 and has obtained 2.375 marks. Rule 3(a) provides to appoint one out of these three names. The Minister-in-Charge has appointed the private respondent ignoring that the petitioner has obtained more marks than the private respondent. The marks obtained by the petitioner are about double to the marks obtained by the private respondent. The Minister-in-Charge also failed to consider that all the authorities have also recommended the name of the petitioner.
- 28.** The Special reason is required if the Government may select any other from the rest of the candidates. In the present case, the Minister-in-Charge has not selected from the rest of the candidates. The name of the private respondent is within the three candidates and out of three, the Committee has recommended the name of the petitioner as the petitioner has obtained more marks than the private respondent. Neither in the recruitment notice nor the authorities have shown that experience of “Kazi” is required for appointment of MMR.
- 29.** This Court finds that recommendation of the Minister-in-Charge by giving much weight to the private respondent is not in accordance with law as the name of the private respondent is appearing within the three candidates and obtained less marks to that of the petitioner and not from the rest of the candidates. The special reason is required if the

Minister-in-Charge selects any other candidate from the rest of the candidates. The private respondent is not from the rest of the candidates.

30. This Court is of the view that the private respondent is not from the rest of the candidates, thus Rule 3(a) of the Notification dated 14th August, 1929, is not applicable in the present case.

31. Considering that above, the appointment of the private respondent as Muhammadan Marriage Registrar (MMR) under the jurisdiction of Haripal Police Station, District- Hooghly, being Notification No. 610-L/L W/O/St./4M-14/2022 (Part-1) dated 3rd June, 2025, is set aside and quashed. The respondents are directed to appoint the petitioner in accordance with the final merit list and recommendation made by the Committee within a period of two (2) weeks from the date of communication of this order.

32. WPA No. 20391 of 2025 is allowed.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)