



WAFAQI MOHTASIB (OMBUDSMAN)'S SECRETARIAT

FINDINGS

Complaint No : WMS-ONL/0009161/20
Date of Registration : 22.07.2020
Name & Address of the Complainant : Mr. Sarfraz Gil, Sub-Assistant, Public Relations Directorate, Room No.37, Block # IV, CDA Secretariat, Sector G-7/4, Islamabad
Name of the Agency Complained Against : Islamabad Capital Territory (ICT)
Name of the Investigating Officer : Khalid Masood Ahmed, Advisor
Subject of Complaint : Christian Marriage Registration Certificate
Date when Report called from Agency: 27.07.2020
Date of Receipt of Complete Report: 26.08.2020
Number & Dates of Hearing : 1. Number: 03
2. Dates: 04.08.2020, 19.08.2020 & 26.08.2020
Name and Designation of the Agency's Representative who attended the hearing : Mr. Mansur-ul-Haq, Assistant
Whether the complainant attended the hearing? : Yes.

APPROVED ON

28 SEP 2020

THE COMPLAINT

Wafaqi Mohtasib (Ombudsman)

Mr. Sarfraz Gil has submitted the instant complaint against Islamabad Capital Territory (ICT) Administration for not providing facilities to the Christian community for issuing Marriage Registration Certificate. The Christian community of Islamabad has contacted District Municipal Administration as well as Salsi Council for issuing Christian Marriage Registration Certificates but both are shifting responsibilities. In this situation, the Christian residents are suffering a lot since long. The entire community needs a mechanism for getting Christian Marriage Registration Certificates. It was also mentioned that in the Punjab province birth, death & Christian Marriages Registration Certificate were issued by the Union Councils.

RESPONSE BY THE AGENCY

2. The complaint was referred to the ICT Administration for comments/views. The Local Government & Rural Development (LG&RD) Department, ICT Administration submitted a reply on behalf of ICT Administration. It was stated that LG&RD department and all Union Councils in the rural area of ICT were following the procedure only for issuance of Computerized Certificates to the Muslims under MFL Ordinance / Rules, 1961. There are two major Churches in Islamabad i.e. at F-8 and in G-7; it would be appropriate to assign the task of registration of marriages and issuance of computerized certificates, according to their religious norms, to the churches. The reply also referred to signing of a fresh MOU with NADRA to provide internet connectivity, scanners, new computer systems and printers at all CRMS sites,

and staff required including computer operators and record keepers. The Department proposed that entire record of the Christians was available with their respective Churches, if it was desired to issue Computerized NADRA Certificates; this record would have to be made available. Finally it was stated that after detailed discussions before the National Assembly, it had been decided that three MNAs from Islamabad City would prepare and put up a draft in this regard for finalization of this matter.

REJOINDER

3. The complainant in his rejoinder stated that existing procedure in union councils of Punjab regarding issuance of Marriage Certificate for Muslim / Non-Muslims citizens, without any discrimination, could be adopted by ICT Administration, Islamabad. There was a discrimination that Union Councils and other relevant departments in Punjab were issuing Christian Marriage Certificate as per orders of the Supreme Court of Pakistan but in the Federal Capital, LG&RD department and Union Councils in the rural area were issuing computerized certificates only to the Muslims. Christian Marriage registration and Issuance of Certificate is a mandate of a government department and its denomination to F-8 or G-7 Churches should not be done for avoiding interfaith complications. It was also stated that any fresh legislation of new laws would create complications.

POINT AT ISSUE

4. Are the marriages of the Christian Community living in Islamabad Capital Territory properly registered and do they enjoy equal rights in this respect?

HEARING PROCEEDINGS

5. Three hearings of the complaint were held on 04.08.2020, 19.08.2020 and 26.08.2020 which were attended by both the sides. The reply on behalf of the ICT Administration was submitted by the LG&RD Department. The complainant Mr. Sarfraz Gil attended all the proceedings.

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6. The issue of registration and issue of computerized certificates to the Christian Community has been lingering on since long and it has remained under consideration before the highest judicial forum in the country. There is definitely an element of **delay** in finalizing this issue. The Supreme Court of Pakistan in 2018 issued a landmark judgement in Human Rights Case No. 32642-P, while disposing of an application submitted by the very reverend Shahid P. Meraj, Dean of the Cathedral Church of the Resurrection, Lahore. The grievance propounded in the application was non-registration of Christian Marriages with the Union Councils of the Province of Punjab and the National Database and Registration Authority (NADRA). The Supreme Court observed that 'local government statutes of the Provinces of Sindh, Khyber Pakhtunkhwa and Balochistan, all contain similar provisions which empower the local government to register Christian marriages. It is an admitted fact that in the other Provinces, Union Councils have not raised any objection to registering Christian marriages in this regard and in light of the Article 25 of the Constitution of the Islamic Republic of Pakistan providing

that "all citizens are equal before law and are entitled to equal protection of law", it is discriminatory that Punjab, where around 80% of the total Christian population of Pakistan resides, should refuse to do so.'

7. The august Court directed the HR&MA Department to introduce a procedure 'for receiving the names of all the persons, who fall within the provisions of Section 5(1) and (2) of the (Christian Marriages) Act, 1872 and are duly authorised to solemnise marriages the Department should prepare lists of such names based on the jurisdiction of the concerned local government; the lists should be forwarded to the concerned local government (including Union Councils) so that they are aware that such individuals are duly recognised as persons authorised to solemnise marriages according to the law and capable of registering such marriages with the local government without holding a formal license to that effect. Thereafter, the local government shall, in accordance with law, report / pass on such information of a Christian Marriage to NADRA which shall issue the requisite computerised marriage certificate. Therefore:-

- i. Union Councils are directed to register Christian Marriages in accordance with law;
- ii. NADRA is directed to issue computerized marriage certificates in accordance with law; and
- iii. The LG&CD Department and the HR&MA Department of the Government of Punjab are directed to promulgate the necessary rules, etc. and make the necessary amendments in the by-laws, notifications, letters, etc. to reflect the legal position outlined in this opinion.'

8. The above referred judgment of the Supreme Court is binding for all government departments and applicable through-out Pakistan. It is not confined only to the province of the Punjab.

9. It also seems appropriate that the legal provision applicable in this complaint may also be reviewed. The registration of Muslim marriages in Islamabad is done under Islamabad Capital Territory Local Government Act, 2015. Relevant section of the Act have been perused. Section 71 of the Act provides as under:

71. Functions of Union Councils.- (1) A Union Council shall, subject to the provisions of the Capital Development Territory Ordinance, 1960, perform functions specified in the Second Schedule.

10. The Function (j) of the 'Functions of the Union Councils' mentioned in the Second Schedule of the Act is reproduced below:-

'arrange for registration^{of} births, deaths, marriages and divorces and pass on such information about births, deaths, marriages and divorces in the Union Council to such persons and institutions as may be prescribed;'

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11. The above mentioned section or no other section of Islamabad Capital Territory Local Government Act, 2015 specifically prohibits the Union Councils of Islamabad from registering Christian Marriages. All residents of Islamabad, whether a Muslim or a Christian or belonging to any other religion; they all are equal citizens and all laws should be equally applicable to them.

RECOMMENDATIONS

12. In view of the above discussion and keeping in view Function (j) mentioned in Second Schedule of the aforementioned Act and the judgment of the Supreme Court of Pakistan, the complaint is accepted under Regulation 23 (4) of the Wafaqi Mohtasib's (Investigation and Disposal of Complaints) Regulations, 2013. The LG&RD Department, ICT administration shall follow the directions given by the Supreme Court of Pakistan in Human Rights Case No. 32642-P of 2018 in letter and spirit and report compliance to this office within sixty (60) of the receipt of a copy of these Findings.

Sd/-

(SYED TAHIR SHAHBAZ)
WAFAQI MOHTASIB (OMBUDSMAN)

APPROVED ON

28 SEP. 2020

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