
(2006) 11 CAL CK 0037

In the Calcutta High Court

Case No : M.A.T. No. 238 of 2005 and C.A.N. No. 3274 of 2005

Biswajit Mahato

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 15-11-2006

Acts Referred:

West Bengal Scheduled Castes and Scheduled Tribes (Identification) Rules, 1995 — Rule 3

Citation : (2007) 1 CHN 524 : (2007) 1 ILR (Cal) 235

Hon'ble Judges : Prabuddha Sankar Banerjee, J; Bhaskar Bhattacharya, J

Bench : Division Bench

Advocate : Anup Kumar Biswas, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

Bhaskar Bhattacharya, J.—This mandamus appeal is at the instance of an unsuccessful writ petitioner and is directed against an order dated 6th December, 2004 passed by a learned Single Judge by which His Lordship dismissed the writ application filed by the present appellant in which the appellant prayed for setting aside the order dated 26th October, 2004 passed by the respondent No. 4 in Cancellation Proceeding No. 24 of 2003 by which the said respondent cancelled the Scheduled Tribe Certificate earlier granted to the appellant.

2. The facts giving rise to filing of the said writ application may be epitomised thus:

(a) The appellant describing himself as a member of Bedia community had obtained a Scheduled Tribe Certificate from the respondent No. 4 bearing No. 46667 dated 3rd January, 2002 from the office of the Sub-Divisional Officer, Balurghat.

(b) Subsequently, on a preliminary enquiry, it was detected that the appellant was not a resident of the village Raghunathpur as described in the earlier certificate granted to him but was actually a resident of the village Sunderpukur

under the Gangarampur Sub-Division.

(c) In view of the aforesaid fact, a proceeding was initiated against the appellant under Rule 3 of the West Bengal Scheduled Castes and Scheduled Tribes (Identification) Rules for cancellation of the earlier certificate as he obtained the said certificate on the basis of false information as regards his place of residence.

(d) Accordingly, a notice was issued to the said appellant asking him to deposit the Scheduled Tribe Certificate granted to him and to show-cause why the said certificate should not be cancelled.

(e) Instead of depositing the said certificate, the appellant had shown cause to the said notice along with some documents. The appellant also filed a writ application challenging the initiation of the cancellation proceeding. The said writ application was disposed of by directing the respondent No. 4 to conclude the proceeding within a specified period after giving an opportunity of hearing to the appellant.

(f) Pursuant to the said direction given by the High Court, the appellant was served with a notice to appear before the respondent No. 4. The appellant, accordingly, appeared with his written statement and also filed some documents in support of his claim that he was a member of the Bedia community.

(g) The respondent No. 4 on consideration of the materials placed by the appellant before him came to the conclusion that the appellant had earlier procured the Scheduled Tribe Certificate by giving false information as regards his place of residence and also using fabricated documents. It was further held that the appellant failed to prove that he was a member of the Bedia community.

(h) Being dissatisfied, the appellant preferred a fresh writ application before this Court challenging the decision of the respondent No. 4 and a learned Single Judge of this Court, by the order impugned herein, has rejected the said writ application by affirming the order passed by the respondent No. 4.

3. Being dissatisfied, the appellant has come up with the present mandamus appeal.

4. Mr. Anup Kumar Biswas, the learned Advocate appearing on behalf of the appellant has laboriously contended before us that the learned Single Judge did not appreciate the fact that the respondent No. 4 did not consider all the materials placed before him by the appellant in support of his contention that he was a member of the Bedia community. According to him, the respondent No. 4 did not even give the appellant sufficient opportunities to produce evidence in support of his claim. He, therefore, prays for setting aside not only the order passed by the learned Single Judge but also the order passed by the respondent No. 4 which was impugned in the writ application.

5. Therefore, the only question that arises for determination in this mandamus appeal is whether the learned Single Judge was justified in not interfering with

the findings recorded by the respondent No. 4 while revoking the Scheduled Tribe Certificate earlier granted to the appellant.

6. After hearing the learned Counsel for the appellant and after going through the materials on record we find that the respondent No. 4 has given elaborate reasons for revoking the certificate earlier granted to the appellant. It is apparent from the materials on record that the appellant deliberately gave false information as regards his place of residence for the purpose obtaining the said certificate. No explanation was given by the appellant justifying disclosure of wrong place of residence in the application. Moreover, no person was brought before the officer concerned certifying that the appellant was a member of the Bedia community. Although the appellant produced some certificates of persons of Bedia community and claimed blood-relationship with those persons, they were not brought before the authority concerned for the purpose of giving oral evidence that those persons were really related to the appellant by blood nor was there any explanation for not examining such persons. If a person merely files certificates showing that somebody else is a member of Scheduled Tribe community claiming blood-relationship with that person, he is further required to establish such fact bringing those persons before the concerned officer who can verify the claim of the appellant by cross-examining those persons. The appellant, in the case before us, has failed to discharge such burden. If the applicant for Scheduled Tribe Certificate does not bring sufficient materials in support of his claim, he cannot blame the officer concerned alleging that he was not given adequate opportunity of being heard. The genealogical table certified by the Pradhan of the Gram Panchayat without examining the certifier cannot be relied upon as such certificate is worse piece of hearsay evidence.

7. We, therefore, find that the learned Single Judge, in the fact of the present case, was quite justified in not interfering with the finding of fact recorded by respondent No. 4 that the appellant was not the member of the Scheduled Tribe community. The aforesaid finding being basically a finding of fact arrived at on appreciation of evidence produced before the officer concerned, such fact cannot be interfered with in a writ jurisdiction like a Court of First Appeal. The aforesaid finding recorded by the respondent No. 4 cannot be said to be a finding based on no evidence nor can such finding be branded as a perverse finding of fact justifying interference in a writ jurisdiction.

8. Any reasonable or prudent person will come to the same finding as arrived at by the respondent No. 4 from the materials on record.

9. We, therefore, find no reason to interfere with the order passed by the learned Single Judge which is impugned in this mandamus appeal by affirming the order passed by the respondent No. 4.

10. This mandamus appeal is, thus, devoid of any substance and is dismissed accordingly. No costs.

Prabuddha Sankar Banerjee, J.

11. I agree.