

(2014) 06 TP CK 0046
In the Tripura High Court
Case No : W.P.(C) No. 383 of 2008

Doyel Singha VsThe State of Tripura

Date of Decision : 13-06-2014

Acts Referred:

Citation : (2014) 06 TP CK 0046

Hon'ble Judges : S. Talapatra, J

Bench : Single Bench

Advocate : H.K. Bhowmik, Advocate for the Appellant; T.D. Majumder, G.A, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

S. Talapatra, J.—Heard Mr. H.K. Bhowmik, learned counsel appearing for the petitioner as well as Mr. T.D. Majumder, learned Govt. Advocate appearing for the respondents No. 1 to 7. None appears for the respondent No. 8 despite due notice from this court.

2. The undisputed fact that has been unfolded in this writ petition is that the petitioner belonging to the "Barua" Committee, has obtained the Scheduled Tribe (ST) Certificate, claiming that the "Barua" Community is the sub-tribe and synonym of the "Mog" Community. By dint of that ST Certificate, she got admission in the MBBS Course in the Tripura Medical College and Dr. BRAM Teaching Hospital, Agartala, as a State Government nominee and prosecuted her studies there.

3. The State Level Scrutiny Committee had issued a show cause notice dated 13.07.2007, Annexure-5 to the writ petition, alongwith a copy of the report of the Vigilance Officer, wherein the Vigilance Officer has observed that from the records so collected, the petitioner does not belong to the ST community. However, the State Level Scrutiny Committee, by the order dated 04.02.2008, Annexure-11 to the writ petition, had cancelled her ST Certificate on observing that:

(i) the surname has not been included in the Scheduled Tribe list of the

Presidential Order in respect of Tripura,

(ii) there is no evidence that Barua Community is a part of Mog of Tripura, and

(iii) the mother tongue of Barua Community is Bengali.

By the said order, the petitioner had been directed to deposit the original ST Certificate dated 30.08.2001.

4. The petitioner has challenged the order dated 04.02.2008, by filing this writ petition and prayed for providing her the benefit of the judgment and order dated 05.10.2005 (All Tripura Buddhist Association (Barua Mog Community) Vs. The State of Tripura & Ors., in Writ Appeal No. 123/2002), where the Gauhati High Court has held as under:

For the reasons stated in the foregoing, this Writ Appeal is dismissed subject to the observations indicated above. It is made clear that the impugned letter dated 17.07.1987 and the related provisions of Tripura Scheduled Castes and Scheduled Tribes (Reservation of Vacancies in Service and Posts) Rules, 1992 shall hereafter be read down consistent with the law laid down by the Apex Court in Milind Case (Supra) in this regard. To avoid administrative chaos and to prevent unsettling the settled positions resulting from some of the observations made by us elsewhere in this judgment, it is further directed that the members of Barua community, who have been issued Scheduled Tribes Certificate and already availing of the benefits of reservation in terms of such Certificates, shall not be affected by this judgment. Order accordingly. The parties are, however, directed to bear their own costs.

5. Mr. H.K. Bhowmik, learned counsel appearing for the petitioner has submitted that after filing this writ petition, the petitioner has completed her MBBS course and, as such, the said MBBS Certificate or further use of that certificate shall not be affected for cancellation of her ST Certificate. Mr. Bhowmik has further submitted that whatever benefits the petitioner has already enjoyed shall not be disturbed for cancellation of her ST Certificate.

6. Mr. T.D. Majumder, learned Govt. Advocate appearing for the respondents No. 1 to 7 has submitted that the petitioner must deposit her original ST Certificate in terms of the impugned order.

7. All Tripura Buddhist Association (Barua Mog Community) had approached the apex court by filing the Civil Appeal No. 640/2006 on special leave, but the apex court has declined to interfere with the said judgment dated 05.10.2005 passed in W.A. No. 123/2002 by the Gauhati High Court. Thus, that position has become settled for ever. By way of clarification, it has been provided that the petitioners who were issued with the Scheduled Tribe Certificates and availed the benefits of reservation in terms of such Certificates shall not be affected in any manner, but the apex court has maintained the cancellation of the status certificate as valid.

8. In view of the above, whatever the petitioner has enjoyed shall not be

deprived of by the respondents in any manner. However, the petitioner shall not be entitled to get any further benefit out of the said ST Certificate or she shall not be allowed to recognise her as the member of the Scheduled Tribe Community for purpose of obtaining any benefit. It is made clear that the petitioner shall deposit her original ST Certificate to the Member Secretary, State Level Scrutiny Committee (the Director, Tribal Welfare Department, Govt. of Tripura), Agartala, within a period of 1(one) month from today.

9. Having held so, this writ petition stands disposed of. There shall be no order as to costs.