

**HIGH COURT OF TRIPURA
AGARTALA
W.A.No.149 of 2021**

Shri Nani Gopal Bhaumik

.....Appellant(s)

Versus

The State of Tripura and Others

.....Respondent(s)

For Appellant(s)	:	Mr. S.M. Chakraborty, Sr. Adv. Ms. P. Chakraborty, Adv.
For Respondent(s)	:	Mr. K. De, Addl. G.A.
Date of hearing of Judgment & Order	:	24.01.2023

**HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE ARINDAM LODH**

Judgment & Order(Oral)

Heard Mr. S.M. Chakraborty, learned senior counsel appearing for the appellant as well as Mr. K. De, learned Addl. G.A. appearing for the respondents.

2. The appellant is a member of the Mahishya Das Community of Tripura which is recognized as Scheduled Caste in the State of Tripura. The respondent No.4 issued a purported show cause notice dated 17.12.2013 stating inter alia that an inquiry was conducted by the Vigilance Cell, Tripura, Agartala for ascertaining the Case status of the appellant herein on the basis of the complaint received against him alleging that he obtained Scheduled Caste certificate by false personification and that the vigilance report dated 30.07.2005 indicated that the appellant herein belongs to 'Debnath' Community, which is not recognized as SC. In response to the

said notice, the appellant herein duly submitted a representation dated 01.01.2014 stating inter alia that the appellant belongs to Mahishya Das Community, which is recognized as SC in Tripurpa and without making any effort to verify the relevant records and without any enquiry, the SC Welfare Sub-Committee of Matabari Block has adopted the resolution dated 26.08.2011 to the effect that he does not belongs to SC community and prayed to drop the proceeding. But the respondent No.4 after hearing the parties, passed a final order dated 22.12.2017 directing cancellation and confiscation of the SC certificate of the appellant dated 25.06.1981. The said order was communicated by the respondent No.4 to the appellant by a forwarding letter dated 04.01.2018 with a request to the respondents No.5 and 6 to take action as per provision of Rule 7A(9) of the Tripura Scheduled Tribe and Scheduled Caste Reservation Rules, 1992. Being aggrieved and satisfied with no response, the appellant filed a writ petition being WP(C)No.162 of 2018 and the said writ petition has been dismissed by the learned Single Judge by a judgment dated 18.03.2021.

3. Mr. S.M. Chakraborty, learned senior counsel appearing for the appellant has submitted that the appellant is the member of Mahishya Das Community of Tripura which is recognized as Scheduled Caste in the State of Tripura. The respondent No.4 issued purported show cause notice dated 17.12.2013 stating inter alia that an inquiry was conducted by the Vigilance Cell, Tripura, Agartala for ascertaining the case status of the appellant on the basis of the complaint received against him alleging that he obtained

Scheduled Caste certificate by false personification and that the vigilance report dated 30.07.2005 indicated that the appellant belongs to 'Debnath' Community which is not recognized as Scheduled Caste. Only the Vigilance Inspector has deposed the case of the appellant. In the deposition, Vigilance Inspector has stated that he went to the birth place of the appellant and meet with the mother and two or three other persons who are closed with the appellant and they have also stated that they do not belongs to SC Community. Relying on the evidence, the said Vigilance Inspector only cancelled the certificate of the appellant.

4. According to Mr. Chakraborty, learned senior counsel, the appellant has produced three witnesses and all of them stated that the appellant belongs to SC Community but that evidence was not taken into consideration by the SLSC. Against that, the appellant has filed the writ petition being WP(C)No.162 of 2018 but the learned Single Judge has dismissed the petition on the ground that at the age when the appellant was 22 years old he has obtained the SC certificate in his name and there was a statement from the side of the appellant that during school days the appellant has stated in the hostel as an SC student. But when he obtained the certificate at the age of 22 his certificate was cancelled that on the ground that how could he claim he has stated in the hostel as an SC student. So taking that part of the evidence, the Hon'ble Single Bench has dismissed the writ petition.

5. Mr. Chakraborty, learned senior counsel has prayed before this court that the foundation of cancellation of the SC certificate by the SLSC is only the evidence of the Vigilance Inspector no other person except him. The person from whom he has recorded the statements they were not even not called as witness to appear in the cross examination. They have also relied on a report of the Village Committee and that none of the members of that committee brought as witness in the cross examination. So he has humbly prayed before this court that the appellant is totally in a helpless situation and only the evidence of the said Vigilance Inspector was relied on and in his deposition he has stated that after recording the evidence according to Mr. Chakraborty, learned senior counsel he has enclosed all the documents that no such statement is there that the statement recorded by him is explained with the person who gave it and this statements were relied on by the SLSC and the SC certificate has been cancelled which has a far reaching effect. Not only the appellant himself but the next generation will also be affected by the said cancellation.

6. Having heard the counsel this court is of the considered opinion that it is the burden on the part of the appellant whether he belongs to SC Community. According to this court, the appellant has to prove the case both from maternal and paternal side. The Vigilance Officer has visited the birth place of the petitioner and recorded the statements of the mother, Pradhan of village and others. All stated that the petitioner belongs to Debnath Community. The mother categorically said that all her forefathers

belong to Debnath Community. The petitioner has not alleged any malafide against the Vigilance Officer and the petitioner has also not taken any steps to produce on his behalf all above persons before the SLSC committee to prove the statements recorded by the Vigilance Officer are incorrect. Moreover, this court has scrutinized that the three witnesses produced by the appellant were also not belongs to SC, they belongs to OBC category. According to this court, the appellant has failed to produce any sort of paper in order to support that his ancestors both from maternal and paternal side they belong to SC. The appellant has failed to produce any certificate regarding the marital status which caste the wife of the appellant belongs. The appellant has totally failed to produce any document in order to support his case.

Having observed thus, this appeal stands dismissed.

JUDGE

CHIEF JUSTICE (ACTING)

