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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2032/2016

RAJENDRA PRASAD SAW and 12 ORS
S/O. SRI PARAMESWAR SAW

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY JOINT SECY. TO THE GOVT. OF ASSAM, WPT and BC DEPTT.,
DISPUR, GHY.-06.

Advocate for the Petitioner : MS.P MAZUMDAR

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

02.01.2023

Heard Shri IA Talukdar, learned counsel for the petitioners as well as Shri N Goswami, learned State Counsel, Assam for the State respondents. Also heard Ms. RB Bora, learned Standing Counsel, BTC.

2. Considering the subject matter in question and also the fact that this writ petition is pending since the year 2016, the same is taken up for disposal at the admission

stage.

3. The case projected in this writ petition is that the petitioners belong to the Bania community which is a recognized Scheduled Caste in the State of Assam. The petitioners also possess certificates in that regard and are enjoying the benefits from several years. However, notices have been issued by the Sub-Divisional Magistrate, Gossaigaon to the petitioners to produce the original caste certificate, fixing 07.03.2016. The petitioners apprehend that on production of the caste certificates, the same would not be returned and therefore, the instant writ petition has been filed.

4. The relief prayed for in this writ petition read as follows:

“It is therefore, prayed before your lordship kindly admit this application, call for records, issue rule upon the respondents to show cause as to why, the prayer made by the petitioners for setting aside all the notices (Annexure-4 series) issued by the Sub Division Magistrate, Gossaigaon, shall not be considered. And on perusal of facts and records, after hearing the parties, your lordship would be pleased to make the Rule absolute or shall pass any other order or orders as deems fit and proper considering the facts and circumstances the case for the ends of justice.

And

Pending disposal of the writ petition, your lordship would be further pleased to direct the respondent no. 4, Sub-Divisional Magistrate, Gossaigaon not to take back the original scheduled caste certificates from the petitioners till disposal of the case.”

5. Shri Talukdar, learned counsel for the petitioners submits that the apprehension

is a genuine one and in the event, the original certificates are not returned, prejudice would be caused to the petitioners. In this regard, he also places reliance upon an order dated 28.02.2019 passed by this Court in WP(C)/6516/2018 (*Jawaharlal Shaw Vs. State of Assam & Ors.*) which he claims to be similar in nature.

6. On the other hand, Shri N Goswami, learned State Counsel, Assam by referring to the affidavit filed by the respondent no. 3, dated 22.07.2016 submits that the exercise carried out vide notice dated 06.02.2016 is a *bona fide* one as, there was serious doubts in the authenticity of the said certificates. The learned State Counsel submits that no cause of action has arisen as, it is only a verification exercise and no adverse action has been taken against the petitioners as yet.

7. Ms. Bora, learned Standing Counsel, BTC endorses the submissions of the learned State Counsel.

8. After hearing the parties, this Court has seen that certain notices have been put to challenge as per which, the petitioners were directed to appear before the authority on a certain date along with the original caste certificates for verification. The only apprehension of the petitioners is that the original caste certificates may not be returned back. Such apprehension, in the view of this Court, is wholly misconceived. Even, assuming that the original certificates are retained, the petitioners would have all the rights to take recourse of law for return of the original certificates. On the other hand, the hesitation on the part of the petitioners to hand over the certificates for verification and filing of this case would lead to a presumption that there may be some dispute with regard to the authenticity of the certificates for which the verification has been sought for.

9. The order passed by this Court in WP(C)/6516/2018 which has been sought to

be relied upon by the petitioners does not have any application with the facts of the present case. In WP(C)/6516/2018, the children of the petitioner was not issued certificate for which writ petitions were filed. The facts are entirely different in the instant case. This Court does not find any cause of action for which the petitioners are required to approach this Court. There is also no stay order passed in this case.

10. In view of the above, the writ petition is dismissed. The verification exercise, if not done, may be done immediately followed by subsequent consequential steps, if so necessary.

JUDGE

Comparing Assistant