

GAHC010171462016



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

Case No. : WP(C)/3513/2016

GOKUL CHANDRA KARMAKAR
S/O- JITENDRA MOHAN KARMAKAR, R/O- WARD NO. 11, KALIGHAT LANE,
DHUBRI, P.O.- A.M. CO. ROAD, P.S. and DIST.- DHUBRI, ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM, WPT
and BC DEPTT., DISPUR, GUWAHATI, ASSAM.

2:THE DY. COMMISSIONER
DHUBRI
P.O.
P.S. and DIST.- DHUBRI
ASSAM
PIN- 783301.

3:ADDL. DY. COMMISSIONER
DESIGNATED OFFICER FOR ISSUANCE OF S.C. CERTIFICATE
P.O. and DIST.- DHUBRI
ASSAM
PIN- 783301.

4:THE CIRCLE / REVENUE OFFICER DHUBRI CIRCLE
P.O. and DIST.- DHUBRI
ASSAM
PIN- 783301.

5:WARD COMMISSIONER WARD NO. 11
P.O. and DIST.- DHUBRI
ASSAM
PIN- 783301.

6:CHAIRMAN
SUB-DIVISIONAL SCHEDULE CASTE DEVELOPMENT BOARD
DHUBRI SUB-DIVISION
DHUBRI BAR ASSOCIATION
DHUBRI
P.O. and DIST.- DHUBRI
ASSAM
PIN- 783301

For the Petitioner(s) : Mr. R. Goswami, Advocate

For the Respondent(s) : Ms. M. Barman, Jr. Government Advocate
: Mr. P. S. Bhattacharaya, Standing Counsel

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

JUDGMENT

Date : 15-11-2023

1. The instant writ petition has been filed by the Petitioner seeking a direction upon the Respondent Authorities to issue a Schedule Caste Certificate to the Petitioner.

2. The facts involved in the instant case herein are that the Petitioner claims that he belongs to the "Bania" community which is a Schedule Caste in Assam. It is also admitted fact that the Petitioner's parents did not apply for Schedule Caste certificate but the Petitioner applied for the Schedule Caste certificate to the Deputy Commissioner's Office, Dhubri on 31.10.2015. Along with the said application, the Petitioner submitted (a) a copy of the voter list of 1971 and 1966; (b) certificate of the Identity to Displaced Goldsmith Certificate in the name of the Petitioner's parents and paternal uncle issued by the Secretary, Sub-Divisional Association of Goldsmith, Dhubri Sub-Division; (c) certificate of

residential address issued by the Dhubri Municipal Board with Holding Number; (d) certificate of the Schedule Caste Certificate in the name of the Petitioner's genealogical paternal uncle issued by the Sub-Divisional Welfare Officer, Dhubri Sub-division; (e) certificate of the Schedule Caste Certificate in the name of Petitioner's genealogical cousins issued by the Deputy Commissioner, Jorhat; and an affidavit on caste claim by the Petitioner.

3. It is also the case of the Petitioner that the Petitioner has duly applied for a report from the Ward Commissioner of the Dhubri Municipal Board by filing an application on 16.01.2016 but the Ward Commissioner did not give the report. It is however not known as to whether the Petitioner had applied before the President/Secretary of the District President of Anusuchit Jati Parishad/Chairman of the Schedule Caste Development Board/President/Secretary of the Apex Body of Caste Organization authorized by the Government. Be that as it may, as neither the Petitioner's application for issuance of caste certificate was considered nor the Petitioner was issued a caste certificate, the Petitioner has approached this Court by filing the present writ petition.

4. In the records, there is an affidavit filed by the Assistant Commissioner, Dhubri on behalf of the Respondent No.2. In the said affidavit, it was duly admitted that the Petitioner's application was received but it was the specific case as set out in the said affidavit that the Petitioner submitted the application without the recommendation from the Gaonburah/Ward Commissioner which is mandatory as per the Government instruction dated 21.10.2013 wherein it was mentioned that the report/recommendation of Gaonburah/Ward Commissioner may be skipped if the parents of the applicant have already been issued

Schedule Caste certificate. It was further mentioned that the recommendation from the President/Secretary of the District President of Anusuchit Jati Parishad/Chairman of the Schedule Caste Development Board/President/Secretary of the Apex Body of Caste Organization was also not enclosed. It was also mentioned that though the Petitioner has enclosed certificate issued in the name of Rajendra Mohan Karmakar but the same was not admissible as per the Government guidelines inasmuch as the parents Schedule Caste certificate would have been admissible. To the said affidavit, an Office Memorandum dated 21.10.2013 was enclosed as Annexure-I. At Serial No.6 of the said Office Memorandum, the list of documents required to be attached with the Standard Application Form have been mentioned. The said Clause-6 of the said Office Memorandum being relevant for the purpose of the instant dispute is reproduced hereinunder:

<i>“6. List of documents required to be attached with the Standard Application Form</i>	<i>a) Two copies of passport size photograph of the applicant.</i> <i>b) Permanent Resident Certificate or any other proof of residency.</i> <i>c) Caste certificate of parents or any supporting proof of caste status.</i> <i>d) Affidavit by the applicant or parents in lieu of (c)</i> <i>e) Report of Gaonburah in case of rural areas/Ward Commissioner in case of urban areas. (Recommendation of the Gaonburah/Ward Commissioner may be skipped if the parents of the applicant have already been issued SC Caste</i>
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	certificate) <i>f) Recommendation of President/Secretary of District President of Anusuchit Jati Parishad/Chairman of Scheduled Caste Development Board/President/Secretary of the Apex body of caste organizations authorized by Govt. as the case may be."</i>
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5. The learned counsel appearing on behalf of the Petitioner submitted that in view of the stand which has been taken in their said affidavit filed by the Respondent No.2, the Petitioner would again apply for the Caste Certificate in terms with the Office memorandum dated 21.10.2013 and would also approach the Chairman of the Schedule Caste Development Board, Dhubri seeking their recommendations. The learned counsel however submits that a time frame may be given to the said authority so that the said authorities disposes of the request so made by the Petitioner at the earliest.

6. Mr. T. S. Bhattacharrya, the learned counsel appearing on behalf of the Respondent No.5 submitted that if the Petitioner submits a fresh application, the same shall be duly considered within a time frame.

7. Ms. M. Barman, the learned Jr. Government Advocate appearing on behalf of the other Respondents further submitted that if the Petitioner submits application along with the documents mentioned in the Office Memorandum dated 21.10.2013, the same shall be duly considered on its own merits within a time frame.

8. Taking into account the above, this Court therefore disposes of the instant writ petition thereby granting the liberty to the Petitioner to approach

the Ward Commissioner of the Dhubri Municipal Board as well as the Chairman of the Schedule Caste Development Board by submitting applications seeking their recommendation/report. This Court directs the Ward Commissioner of the Dhubri Municipal Board as well as the Chairman of the Sub-Divisional Schedule Caste Development Board to consider the said applications if so submitted and dispose of the same within a period of 3 (three) months from the date of filing of the such application.

9. This Court further grants liberty to the Petitioner to file a fresh application seeking the Caste Certificate provided the Petitioner produces the documents as enumerated in Clause-6 of the Office Memorandum dated 21.10.2013 and in such circumstances, if the Petitioner files an application, the Deputy Commissioner, Dhubri shall on the basis of the said documents consider the request for issuance of the Schedule Caste Certificate within a period of 3 (three) months therefrom.

10. With above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant