

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 748 of 2023

Sri Sew Prasad Biswas,
S/O. late Bhabani Ranjan Biswas,
Resident of - Village: Kumarghat,
P.O. Kumarghat, Sub-Division: Kumarghat,
District: Unokoti, Tripura.

.....*Petitioner(s).*

VERSUS

1. The State of Tripura,

Represented by the Secretary,
Department of Welfare for Scheduled Caste and O.B.Cs.,
Government of Tripura, New Secretariat Building,
P.S. New Capital Complex, P.O. Kunjaban, Agartala,
District: West Tripura. PIN: 799006.

2. The Secretary, Department of GA (P&T), Government of Tripura,
New Secretariat Building, P.S. New Capital Complex,
P.O.- Kunjaban, Agartala, District: West Tripura. PIN: 799006.

3. State Level Scrutiny Committee,

Represented by the Member Secretary,
Director of Welfare for Scheduled Caste and O.B.Cs,
Government of Tripura, New Secretariat Building, New Capital Complex,
Kunjaban, P.S New Capital Complex, Agartala, West Tripura, PIN 799006.

4. The Chairman,

State Level Scrutiny Committee,
(The Secretary, Department of Welfare for Scheduled Caste and O.B.Cs,
Government of Tripura, New Secretariat Building, New Capital Complex,
Kunjaban, P.S New Capital Complex, Agartala, West Tripura, PIN 799006.)

5. The Member Secretary,

State Level Scrutiny Committee,
(The Director, Department of Welfare for Scheduled Caste and O.B.Cs,
Government of Tripura, New Secretariat Building, New Capital Complex,
Kunjaban, P.S. New Capital Complex, Agartala, District West Tripura, PIN 799006.)

.....*Respondent(s).*

WP(C) 749 of 2023

Sri Abhisek Biswas,
S/O. Sri Sew Prasad Biswas,
Resident of – North Indranagar,
P.O. Kunjaban, P.S. New Capital Complex,
District: West Tripura, Tripura, PIN: 799001

.....*Petitioner(s).*

VERSUS

- 1. The State of Tripura,**
Represented by the Secretary,
Department of Welfare for Scheduled Caste and O.B.Cs.,
Government of Tripura, New Secretariat Building,
P.S. New Capital Complex, P.O. Kunjaban, Agartala,
District: West Tripura. PIN: 799006.
- 2. The Secretary,** Department of GA (P&T), Government of Tripura,
New Secretariat Building, P.S. New Capital Complex,
P.O.- Kunjaban, Agartala, District: West Tripura. PIN: 799006.
- 3. State Level Scrutiny Committee,**
Represented by the Member Secretary,
Director of Welfare for Scheduled Caste and O.B.Cs,
Government of Tripura, New Secretariat Building, New Capital Complex,
Kunjaban, P.S New Capital Complex, Agartala, West Tripura, PIN 799006.
- 4. The Chairman,**
State Level Scrutiny Committee,
(The Secretary, Department of Welfare for Scheduled Caste and O.B.Cs,
Government of Tripura, New Secretariat Building, New Capital Complex,
Kunjaban, P.S New Capital Complex, Agartala, West Tripura, PIN 799006.)
- 5. The Member Secretary,**
State Level Scrutiny Committee,
(The Director, Department of Welfare for Scheduled Caste and O.B.Cs,
Government of Tripura, New Secretariat Building, New Capital Complex,
Kunjaban, P.S. New Capital Complex, Agartala, District West Tripura, PIN 799006.)

.....*Respondent(s).*

For Petitioner(s)	:	Ms. R. Purkayastha, Advocate Mr. Rajib Saha. Advocate
For Respondent(s)	:	Mr. Kohinoor N. Bhattacharya, G.A. Mr. M. Debbarma, Addl. G.A.
Date of hearing & delivery of judgment & order	:	22.07.2024.
Whether fit for reporting	:	Yes

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order (Oral)

Heard Mr. Rajib Saha, learned counsel appearing for the petitioners. Also heard Mr. Kohinoor N. Bhattacharya, learned G.A. as well as Mr. M. Debbarma, learned Addl. G.A. appearing on behalf of the State respondents.

[2] The present writ petitions are filed under Article 226 of the Constitution of India for issuance of a writ of certiorari and/or in the nature thereof, quashing/cancelling, setting aside the impugned decision/final order dated 17.08.2023 passed by the respondent- State Level Scrutiny Committee (SLSC for short). The petitioner in WP(C) 748 of 2023 namely, Sri Sew Prasad Biswas is the father of Sri Abhisek Biswas, who is the petitioner in WP(C) 749 of 2023. Since both these writ petitions have been filed challenging the same

order impugned dated 17.08.2023 of the State Level Scrutiny Committee in cancelling the scheduled caste certificate of the petitioners and the facts are also identical in both the petitions, same are taken together for hearing and disposal in a common order.

[3] The brief facts of the case of the petitioner in WP(C) 748 of 2023 are that he is about 68 years old and a retired TCS Grade I Officer under the Government of Tripura. In the year 1998, a complaint was lodged by one Sudhir Das, Santir Bazar, Kamalpur, before the Competent Authority, Government of Tripura alleging that the petitioner does not belong to 'Namasudra Community' which is recognized as Scheduled Caste in the State of Tripura. The said allegation was made against the petitioner when he was serving as Add. Sub-Divisional Officer, Longtarai, Dhalai District. On the basis of the said complaint against the petitioner, an inquiry was initiated by Sri. N.L. Debbarma, S.I. of Police (Vigilance Organization) and subsequently, by Show Cause Notice dated 19.01.2007, the petitioner was asked to show cause as to why his SC Certificate should not be cancelled. The petitioner submitted written reply to show cause notice defending his Caste Status. Thereafter, by order dated 09.10.2007, the SLSC cancelled the SC Certificate of the petitioner.

[4] The petitioner had challenged the said order of the SLSC, by filing a writ petition registered and numbered as Case No. W.P.(C) 38 of 2008,

before this Court and thereafter, by a common Judgment and Order dated 10.07.2015, passed in WP(C) No.38 of 2008 and WP(C) No.254 of 2011, this Court remanded the matter to the SLSC with a direction to decide the case of the petitioner afresh after providing opportunity to the petitioner including personal hearing. But, according to the petitioner, the SLSC without giving reasonable opportunity to the petitioner to defend his case, passed an order dated 07.01.2016 cancelling the SC certificate of the petitioner. Thereafter, the petitioner, being aggrieved with the order dated 07.01.2016 again approached this Court by filing another writ petition registered and numbered as Case No. W.P.(C) 55 of 2016.

[5] While the matter stood thus, Mr. Abhisek Biswas (petitioner in WP(C) 749 of 2023) son of Mr. Sew Prasad Biswas was selected for appointment to the post of TPS, Grade II against the vacancy reserved for the SC candidates being recommended by the TPSC. Immediately, after selection to the TPS, Grade II, a complaint was lodged to the SLSC against the petitioner in respect to the SC status of the petitioner. Thereafter, Show Cause Notice dated 30.04.2010 was issued to the petitioner and he was asked to show cause as to why his SC Certificate should not be cancelled. The petitioner submitted written reply to show cause notice defending his Caste Status. But, by order dated 21.05.2011, the SLSC cancelled the SC Certificate of the petitioner.

[6] The petitioner, Abhisek Biswas challenged the said order dated 21.05.2011 of the SLSC, by filing a writ petition registered and numbered as Case No. W.P.(C) 254 of 2011 before this Court. Thereafter, this Court, by a common Judgment and Order dated 10.07.2015 passed in WP(C) No.38 of 2008 and WP(C) No.254 of 2011, remanded the matter to the SLSC with a direction to decide the case of the petitioner afresh after providing opportunity to the petitioner including personal hearing. But, according to the petitioner, the SLSC without giving reasonable opportunity to the petitioner to defend his case, passed the order dated 03.02.2016, cancelling the SC certificate of the petitioner. Thereafter, being aggrieved by the order dated 03.02.2016, the petitioner again approached this Court by filing another writ petition registered and numbered as Case No. W.P.(C) 702 of 2017.

[7] Thereafter, both the cases of the petitioners were heard together by this Court in W.P.(C) 55 of 2016 and W.P.(C) 702 of 2017 and by its order dated 03.02.2021, this Court disposed of their cases by remitting the matter again to the SLSC with a direction to re-examine and re-hearing the case of the petitioners. Challenging the said order, State respondents preferred appeals before the Division Bench of this Court being WA 175 of 2021 and WA 176 of 2021 respectively, but, the same were dismissed by orders dated 06.12.2022.

[8] Accordingly, the SLSC in compliance of the direction, passed by this Court, again issued the notices upon the petitioners directing them to appear and participate in the hearing of the proceeding. Thereafter, the SLSC has passed the Final Order dated 17.08.2023 cancelling the SC Certificate of both the petitioners. Being aggrieved, the present writ petitions have been preferred by the petitioners herein.

[9] Mr. Rajib Saha, learned counsel for the petitioners submits that this Court by order dated 03.02.2021 remanded the matter to re-hear and re-examine the case of the petitioners giving the petitioners reasonable opportunity but, instead of that, the SLSC proceeded with both the cases of the petitioners analogously. During the re-examination, the SLSC has not re-examined the evidences which were already on record more particularly those evidences and documents which are in favour of the petitioner. According to him, the respondent-SLSC has whimsically passed the impugned order dated 17.08.2023 without complying the direction passed by this Court in the judgment dated 03.02.2021. He, therefore, contends that the impugned order dated 17.08.2023 deserves to be interfered with and same may be quashed by this Court.

[10] He further submits that respondent-SLSA had never followed the provisions of Rules 6 and 7A of the Tripura Scheduled Castes and Scheduled

Tribes Reservation Rules, 1992 before cancelling the SC certificates of the petitioners herein. The SLSC took into consideration, the report of the BDO, Manu, RD Block which was impermissible under the said Rules.

[11] *Per contra*, Mr. M. Debbarma, learned Addl. G.A. while representing his case on behalf of State in WP(C) 748 of 2023, submits that in compliance with the order of this Court dated 03.02.2021, the SLSC proceeded to re-hear the matter of the petitioner afresh and also extended all reasonable opportunities to the petitioner to submit relevant documents including the documents and supplementary documents submitted before this Court by way of affidavit. But, the petitioner failed to adduce any supporting caste certificate of his ancestor or any other elderly member of his family which would reveal that those certificates of the family members of the petitioner were issued prior to the issuance of caste certificate of the petitioner. He further contends that during the proceedings before the SLSC, the petitioner submitted few documents but, those documents are related to employment, absorption and promotion and hence those documents could not be considered as tangible documents to support his caste status. The scheduled caste sub-committee of the Block passed resolutions indicating petitioners are not scheduled caste but they are Kayastha and therefore, are General category.

[12] He further contends that the petitioner namely, Sew Prasad Biswas obtained the caste certificate on 01.02.1978 which is much prior to the correction of his father's caste status in the year 1981. The Record of Ordinary Residence (ROR) of the year 1962, 1988-1990, 1993 of Chawmanu R.D. Block (presently Manu Block) highlighted in the ROR Book No.4 of the year 1962 that, the petitioner's father namely Bhabani Ranjan Biswas had been recorded as 'Sadharan' (General). The caste status of the father of the petitioner was reflected as 'General' for several years. But, astonishingly, the caste status of the father of the petitioner got corrected in the year 1981 i.e., after more than 2 years from the issuance of caste certificate in favour of his son i.e. the petitioner (Sew Prasad Biswas).

[13] The matter was referred to the B.D.O, Manu, R.D. Block for obtaining the views of the concerned SC Welfare Sub-Committee about the caste status of the petitioner. The B.D.O. Manu, R.D. Block after obtaining the views of the concerned SC Welfare Sub-Committee submitted its views along with resolution dated 11.12.1997 and held that, the petitioner does not belong to the SC community rather he belongs to 'Kayastha' community i.e., General caste community. On the basis of the report of the Vigilance Inquiry and the observation of the SC Welfare committee, Manu RD. Block, the SLSC had cancelled the SC certificate of the petitioner on earlier occasion vide order dated 09.10.2007.

[14] Mr. Kohinoor N. Bhattacharya, learned G.A. while representing his case on behalf of State in WP(C) 749 of 2023, submits that examining all the documentary evidence on record and observing all the aspects of law, the SLSC have cancelled the SC certificate of the petitioner. High Court is not a court of appeal to appreciate those evidences. He, therefore, prays that the order impugned of the respondent SLSC should not be interfered with and this present writ petition be dismissed. To support his contention, learned G.A. has further placed reliance on the judgments of Hon'ble Supreme Court, which are as under:

1. ***Navneet Kaur Harbhajansing Kundles alias Navneet Kaur Ravi Rana v. State of Maharashtra and others*** reported in **2024 SCC OnLine SC 494**.
2. ***Kumari Madhuri Patil and Another v. Addl. Commissioner, Tribal Development and others*** reported in **(1994) 6 SCC 241**.

[15] Heard the submissions made at the Bar. Counter-affidavits have also been filed. Perused the record.

[16] Since Mr. Sew Prasad Biswas, petitioner in WP(C) 748 of 2023 is the father of Mr. Abhisek Biswas, petitioner in WP(C) 749 of 2023 and the facts of both the petitions are also identical, for the sake of convenience, the case of the father is taken into consideration as the other writ petition filed by the son also follows the same.

[17] For the purpose of reference the relevant contents of the order of this Court dated 03.02.2021 passed in W.P.(C) 55 of 2016 and W.P.(C) 702 of 2017 are reproduced hereunder:

“.....[4] In my considered view, the matter is necessary to be reexamined by the SLSC, keeping in mind that the S.C Certificate issued in favour of their father, Bhabani Ranjan Biswas and other brothers and sisters, still stand good. The petitioners also have submitted the ROR to support that they belonged to S.C Community.

[5] In view of above, I remit the matter to the SLSC to reexamine and re-hear the petitioners keeping in mind the fresh documents as submitted by the petitioners by way of supplementary affidavit before this Court. After receipt of copy of this order, SLSC if deems fit, shall take into further evidence after issuance of proper notice upon the petitioners. The impugned orders issued against the petitioners cancelling their respective S.C Certificate, stand set aside and quashed.

[6] In the result, both the writ petitions stand disposed of, in the above terms.....”

[18] Challenging the above-quoted order of this Court, State respondents preferred an appeal before the Division Bench of this Court against the petitioner of W.P.(C) 55 of 2016 (Sew Prasad Biswas) being WA 175 of 2021, but, the same was dismissed by the order dated 06.12.2022 with the following observations:

“....5. The respondents by filing their reply has reiterated their stand as espoused in the reply. In the ROR book No.4 of the year 1962, the petitioners father namely Bhabani Ranjan Biswas had been recorded as Sadharan (General). Only in the year 1981, the said ROR register was corrected and the caste status of said Biswas was changed from General to SC. The petitioners Caste Certificate was issued on 01.02.1978 i.e. much prior to correction of his father's caste status in the year 1981. The petitioner could not explain or produce any documents to establish the basis on which his SC Certificate was issued as his father was still recorded as Sadharan (General) in ROR.

6. In the written statement the petitioner has submitted that his father came to India from Bangladesh in the year 1959. But surprisingly, for more than 20 years Babhani Ranjan Biswas belong to General Category and corrected his caste

status in the year 1981 i.e. after the issuance of his sons SC Certificate in the year 1978. It has been also stated that his SC Certificate was issued in the year 1981 i.e. after 2 years from the issuance of the SC Certificate to his son Sew Prasad Biswas. The writ petitioner Sew Prasad Biswas could not produce any document to show the basis of his SC Certificate. The petitioner failed to discharge his onus under Section 11 of the Tripura Scheduled Castes and Scheduled Tribes Reservation Act, 1991. After hearing both sides, the Hon'ble Single Judge allowed the writ petition. Hence, the present writ appeal has been filed.

7. Having heard both sides and after scrutinized the records this we are of the opinion that the orders passed by the learned Single Judge is not affirmative in nature but it is only in the form of remanding the matter giving an opportunity to the respondents, the appellants herein to reexamine the matter and after giving opportunity to all sides and including the evidences which are constructive for the respondent appellants herein to be reexamine.

8. In the light of the same, no opinion can be drawn either in favour of the appellants nor in favour of the respondent at this juncture. Further, this court feels that there no material placed on record to say that the appellants belongs to Kayastha Community or the appellants belongs to Namasudra Community either to accept or to reject the case of the appellant. In the absence of the same, this court is not inclined to give any express opinion with regard to the status of the appellants.

Hence, we do not find any infirmity in the judgment of the learned single Judge and accordingly the same is dismissed....”

[19] For the purpose of reference, the relevant contents of the impugned order dated 17.08.2023 passed by the respondent- State Level Scrutiny Committee (SLSC) is extracted as under:

“....The cases of Sri Sew Prasad Biswas and his son Sri Abhishek Biswas were taken up by the SLSC for analogous re-examination and re-hearing, on being remitted by the Hon'ble High Court of Tripura vide its order dated 3.02.2021 in Case No W.P. (C) 55 of 2016, analogously heard with the Case No W.P. (C) 702 of 2017. The operative portion order of the Hon'ble Court, on the basis of which the case was taken up for re-examination, is as follows:-

"in view of the above, I remit the matter to the SLSC to re- examine and re-hear the petitioners keeping in mind the fresh documents as submitted by the petitioners by way of supplementary affidavit before this Court. After receipt of copy of this order, SLSC if deems fit shall take into further evidence after issuance of proper notice upon the petitioners. The impugned orders issued against the petitioners cancelling their respective SC certificate, stand set aside and quashed."

Background of the Case :-

The case against the Opposite Party Sri Sew Prasad Biswas of Chailengta, P.S.-Longtharai Valley, Dhalai District was earlier disposed of by the SLSC on 09.10.2007 cancelling the Schedule Cast Certificate of the OP on the basis of the report of the Vigilance Inquiry and the observation of the SC Welfare Sub-Committee, Manu R.D Block. In that occasion, the OP Sri Biswas, though submitted a reply to the show cause notice, stating that he and his other family members belong to Namasudra community, but didn't plead for any personal hearing.

That order of the SLSC was challenged by the OP before the Hon'ble High Court of Tripura in Case No. W.P (C) 38 of 2008 and 254 of 2011 and the Hon'ble High Court setting aside order of the SLSC, remitted it back to the SLSC to decide the matter afresh after providing opportunities to the petitioner including personal hearing.

In compliance with the order of the Hon'ble High Court, as mentioned supra, the SLSC had started a fresh proceeding, giving reasonable opportunity to the OP and the proceeding was disposed of by a final order dated 07.01.2016 cancelling again the Caste Certificate of the OP. In the course of that proceeding, both the parties were given adequate opportunity for adducing evidence and the OP had produced 05 (five) defense witnesses including himself and also produced some documents. In that order of the SLSC it is clearly mentioned that the relevant Record of Ordinary Residence (ROR) of the father of the OP was examined by the SLSC for the year 1962, 1988-1990, 1993 of Chailengta Gaon Panchayat, Chawmanu RD Block (presently Manu RD Block) etc and the OP was given adequate opportunity to submit any kind of document to prove that his father and forefathers belong to Feni, Bangladesh, wherefrom he claimed to have been migrated. It is also observed by the SLSC that the ROR does not support the story of migration of the father of the OP. The SLSC also detected that in the ROR, the caste status of the father of the OP was corrected by an order of the SDO on 02.05.1981. The SLSC expressed its surprise to the effect that the Caste Certificate of the OP was issued on 01.07.1978, which was prior to the said correction of the ROR in respect of his father in the year 1981. It is also a matter of surprise that the Caste Certificate of the father of the OP, Bhabani Ranjan Biswas was issued on 02.05.1981, which is later than the issue of the Caste Certificate of the OP. With detail observation and scrutiny of all relevant documents, the final order of the SLSC was passed on 07.01.2016, which was again challenged before the Hon'ble High Court and it was again remitted back to the SLSC, with the observation as recorded in the first part of this order.

Issues to be considered by the committee :-

After two cancellation orders by the SLSC and two repeated orders of remittance from the Hon'ble High Court, issues to be considered by this committee are now confined only to the following points:

1. Whether OP has adduced supplementary documents, which can be considered as sufficient evidence to discard the accusation of obtaining false SC certificate by the OP?
2. Whether the Caste Certificate of his father and other relatives were obtained in due course and those can be considered as the basis of the Caste Certificate of the OP?

Findings of the Committee:-

This committee has given adequate opportunity to the OP to produce at least one authentic government document issued prior to the date of issue of his caste certificate. The OP was also asked to produce any supporting documents of his ancestor or any other elderly member of his family issued prior to the date of issue of his Caste Certificate. After as much as four dates the OP produced three documents, which are in photo copies. All these documents are issued in his favour, not in the name of any of his ancestor or elderly relatives. Further, these documents are related to his employment, absorption and promotion in different civil service posts under the State Government and cannot be considered as tangible documents to support his caste status. This apart, the OP being in the civil service posts like Additional Tahashildar and TCS Gr-II was in sufficient official capacity to get his caste status recorded at his wisdom.

It is already sufficiently addressed in the order of the SLSC dated 07.01.2016 that, the Caste Certificate of the father of the OP was issued on 02.05.1981 whereas the Caste Certificate of the OP himself was issued on 01.07.1978. So definitely, the Caste Certificate of the OP was not issued on the basis of his father's caste status. It is also to be pointed out here that the Caste Certificate of the OP was issued after he was temporarily engaged as a contingent worker at the Block Headquarter, Chailangta on 30th August, 1975.

The committee presumes that the OP has utilized his official capacity to obtain a caste status certificate by using unscrupulous means.

The OP was asked to produce any additional evidence, if he wants to produce, but he denied. The OP was also apprised about his eligibility to engage a lawyer, if he wanted to engage, but he denied. Obviously he depended upon the evidences already adduced during last proceeding.

The committee is of the opinion that the committee has extended all reasonable opportunities to the OP. The Committee has also examined and scrutinized all the evidences and counter evidences produced by both the parties. The committee has examined the caste status certificate of the father of the OP and all other related documents for arriving at final decision regarding caste status of the OP and is of considered opinion that the OP has failed to prove that his caste status certificate was genuinely issued and as such it is liable to be cancelled and confiscated.

The committee is also of the considered opinion that the Caste Certificate of the father of the OP was not properly issued and as such it is also liable to be cancelled and confiscated.

It is beyond the knowledge and information of the committee as to how many relatives and kith and kin of the OP are there, who has obtained such Caste Certificate from the issuing authority. So, it will be appropriate for the competent authority to issue necessary instruction to the concerned authority to find out such certificate to place before the committee for appropriate consideration, in due course.

Decision of the Committee :-

In view of the above, the Committee hereby arrives at a decision that the OP Sri Sew Prasad Biswas, S/o Lt. Bhabani Ranjan Biswas of Chailangta, P.S.-Longtharai Valley, Dhalai District now residing at Indranagar, P.S. East Agartala, West Tripura does

not belong to Scheduled Caste Community. Similarly, his son Sri Abhishek Biswas also does not belong to Schedule Caste Community. Thus, the SC Certificates bearing No-494/SDO/KLS/GL/77 dated 01.02.1978 issued in favour of Sri Sew Prasad Biswas, S/o Lt. Bhabani Ranjan Biswas of Chailengta, Sub-Division- Kailashahar, North Tripura now Unakoti District issued by the Sub-Divisional Officer now Sub-Divisional Magistrate, Kailashahar and the SC Certificate bearing No. 376 dated 13.12.2000 in favour of Abhishek Biswas, S/o Sri Sew Biswas of Chailengta issued by SDO, Ambassa are hereby cancelled and confiscated. Sri Sew Prasad Biswas and Abhishek Biswas are hereby directed to return their original SC certificates to the office of the Director for Welfare of SCS within 7 (seven) days from the date of receipt of this order. Issue copy of the order to the concerned Certificate issuing Authority for making an entry in the issue register. Provide copy to both Sri Sew Prasad Biswas and Sri Abhishek Biswas and to the respective complainants.....”

[20] For better appreciation of facts, it is necessary for extracting the relevant provisions of the Tripura Scheduled Castes and Scheduled Tribes Reservation Act, 1991 and the Tripura Scheduled Castes and Scheduled Tribes Reservation Rules, 1992, and the same are extracted as under:

The Tripura Scheduled Castes and Scheduled Tribes Reservation Act, 1991:

Section 2(h)

“[(h) False community certificate means a Scheduled Caste certificate obtained by a person who does not actually belong to any of the Scheduled Castes or a Scheduled Tribe certificate obtained by a person who does not actually belong to any of the Scheduled Tribes;.....”

Section 11

“11. Onus of Proof:

When in any proceeding under this Act or the rules made there under the question is whether a person belongs to the Scheduled Caste or Scheduled Tribe, the onus of proof shall be on the person who claims himself to be member of the of the Scheduled Castes or the Scheduled Tribes, as the case may be....”

Tripura Scheduled Castes and Scheduled Tribes Reservation Rules, 1992:

Rule 5

“5. Procedure for issuing Scheduled Caste or

Scheduled Tribe certificate.

(1) A Scheduled Caste certificate or a Scheduled Tribe certificate shall be issued by the [Sub-Divisional Magistrate] of the Sub-Division where the applicant ordinarily resides according to the following procedures :-

[(a) An application for issuance of a community certificate shall be submitted in the prescribed proforma before seeking admission to any educational institution or an appointment to a post or for any other purpose. On receipt of such application for a Scheduled Caste or Scheduled Tribe certificate the Sub-Divisional Magistrate shall cause a local enquiry through his administrative agency to ascertain if the applicant actually belongs to Scheduled Caste or Scheduled Tribe as the case may be.]

(b) On getting the enquiry report as stated under subrule(a) the [Sub-Divisional Magistrate] shall send the application along with the enquiry report to the [Block level or Nagar Panchayat Level or Municipal Level Scheduled Castes Welfare Sub-Committee or Sub-Divisional Level Scheduled Tribes Welfare Sub-Committee] if any, constituted by the Government for their opinion as to whether the applicant actually belongs to the Scheduled Caste or Scheduled Tribe.

(c) On getting the opinion of the Scheduled Castes Welfare Sub-Committee or Scheduled Tribes Welfare SubCommittee as the case may be regarding the caste status of the applicant the concerned [Sub-Divisional Magistrate] will verify if the local enquiry report submitted by his subordinate officer and the opinion of the Scheduled Castes Welfare SubCommittee or the Scheduled Tribes Welfare Sub-Committee concerned are of similar nature for granting a Scheduled Caste certificate or a Scheduled Tribe certificate to an applicant.

(d) If the [Sub-Divisional Magistrate] is satisfied from the local enquiry report and the opinion of the Scheduled Castes Welfare or Scheduled Tribes Welfare Sub-Committee that the applicant belongs to the Scheduled Caste or Scheduled Tribe as the case may be, he may issue a Scheduled Caste certificate or a Scheduled Tribe certificate to the applicant concerned.

(e) But if the [Sub-Divisional Magistrate] finds that the local enquiry report and the opinion of the Scheduled Castes Welfare or Scheduled Tribes Welfare Sub-Committee are different in nature and it is difficult to arrive at definite conclusion regarding the actual caste identity of the applicant concerned he will refer the case along with the local enquiry report and opinion of the Sub-Committee through the District Magistrate and Collector concerned to the [Director for Welfare of Scheduled Castes and Other Backward Classes] in case of Scheduled Caste certificates and to the [Director for Welfare of Scheduled Tribes] in case of Scheduled Tribe certificates for their decision.

[(f) When any case is referred to the Director for Welfare of Scheduled Castes and Other Backward Classes or the Director for Welfare of Scheduled Tribes for a decision whether a community certificate should be issued or not, the Director concerned shall cause a thorough enquiry into the matter through the Vigilance Cell. The Director for Welfare of Scheduled Castes and Other Backward Classes or the Director for Welfare of Scheduled Tribes as the case may be, will place the vigilance enquiry report, local enquiry report of the Sub-Divisional Magistrate and opinion of the Sub-Committee concerned before the Scrutiny Committee for a decision. The Committee will examine the Vigilance report and other reports/ records sent by the Sub-Divisional Magistrate and take a decision whether a Caste or a Tribe certificate shall be issued or not. However, before taking a final decision, the Scrutiny Committee shall give the applicant a reasonable opportunity of being heard. The decision of the Scrutiny Committee shall be final and communicated to the concerned Sub-Divisional Magistrate]

(g) The Sub-Divisional Magistrate shall act on the decision of the [Scrutiny Committee as communicated by the] [Director for Welfare of Scheduled Castes and Other Backward Classes] or Scheduled Tribes.....”

Rule 6

“[6. Cancellation of Scheduled Caste or Scheduled Tribe certificate An authority who issued a Scheduled Caste Certificate or Scheduled Tribe certificate to any one may, at a subsequent stage cancel it, if after an enquiry and after giving the party concerned an opportunity of being heard, it finds that the person to whom the Community Certificate was issued does not actually belong to the Scheduled Caste or the Scheduled Tribe, as the case may be.

Provided that in cancelling a Scheduled Caste Certificate, the issuing authority shall obtain the views of the concerned Block Level or Nagar Panchayat Level or Municipal Level Scheduled Castes Welfare SubCommittee and in cancelling a Scheduled Tribe certificate, the issuing authority shall obtain the views of the Sub-Divisional Level Scheduled Tribes Welfare Sub-Committee, if any, constituted by the Government, as to whether the certificate holder belongs to Scheduled Caste or Scheduled Tribe and the views so given by the Scheduled Castes Welfare or Scheduled Tribes Welfare Sub-Committee shall form a part of the order cancelling the certificate in question.

Provided further that the Scrutiny Committee shall also be competent to cancel a community certificate issued by a competent authority. For arriving at a decision whether the community certificate in question shall be cancelled or not, the Scrutiny Committee shall follow the procedure prescribed in Rule 7A hereinafter along with reports/records obtained from the competent authority.]”

Rule 7A

“[7A Constitution, Powers and Functions of the Scrutiny Committee.

(1) At the State Level there shall be two Scrutiny Committees as follows –

(a) For verification of community status of Scheduled Caste Certificate holders, the Scrutiny Committee shall consist of :-

(i) The Secretary-in-charge of Department for Welfare of Scheduled Castes, Other Backward Classes and Minorities

- Chairman.

(ii) The Director for Welfare of Scheduled Castes and Other Backward Classes

- Member-Secretary

(iii) Joint Secretary or Deputy Secretary of the Law Department]

- Member

[(iv) Additional Director or Joint Director or Deputy Director for Welfare of Scheduled Castes & Other Backward Classes -

- Member.*****

[(2) Director of Vigilance shall constitute a vigilance cell consisting of Senior Deputy Superintendent of Police in over-all charge and such number of Police Inspectors and Sub-Inspectors to investigate into the community status and claims as may be required.

(3) The Investigating Officer would go to the local place of residence and original place from which the candidate hails and usually resides or in case of migration to the town or city, the place from which he originally hailed. He should personally verify and collect all the facts of the social status claimed by the certificate holder or the parent or guardian, as the case may be. He should also examine the school records, birth registration, if any. He should also examine the parent, guardian or the certificate holder in relation to their caste etc. or such other persons who have knowledge of the community status of the certificate holder and submit a report to the Director of Vigilance who will verify the correctness of the report and transmit it to the Member-Secretary of the Scrutiny Committee concerned together with all particulars as envisaged in the proforma, in particular, of the Scheduled Tribes relating to their peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. by the castes or tribes or tribal communities concerned etc.*****

(6) The inquiry should be completed as expeditiously as possible preferably by day-to-day proceedings within such period not exceeding two months. If after inquiry, the Caste Scrutiny Committee finds the claim to be false or spurious, the Committee shall pass an order cancelling the certificate issued and confiscate the same. The Committee shall communicate within one month from the date of the conclusion of the proceedings the result of enquiry to the certificate holder and in case the certificate holder is a minor to his parent or guardian.....”

[21] The Hon’ble Supreme Court in *Navneet Kaur Harbhajansing Kundles alias Navneet Kaur Ravi Rana v. State of Maharashtra and others* reported in *2024 SCC OnLine SC 494* held thus:

“.....15. Now, when the Scrutiny Committee which is principally tasked with the fact-finding exercise for validation of caste claim, had applied its mind and reached a conclusion, then in such a situation, whether a roving enquiry by High Court was required? It is well settled that High Courts as well as Supreme Court should refrain themselves from deeper probe into factual issues like an appellate body unless the inferences made by the concerned authority suffers from perversity on the face of it or are impermissible in the eyes of law. In the instant case, the order passed by Scrutiny Committee reflects due appreciation of evidence and application of mind and in absence of any allegation of bias/malice or lack of jurisdiction, disturbing the findings of Scrutiny Committee cannot be sustained.*****

17. Having perused the order passed by the Scrutiny Committee and findings recorded by it to reach its subjective satisfaction with respect to claim of Appellant, at this juncture, if we look at the whole exercise carried out by High Court from the perspective of settled principles of law for invocation of jurisdiction under Article 226 of Constitution of India, particularly in relation of writ of certiorari, it leaves us with no scope of doubt that the High Court has clearly overstepped by re-appreciating the evidence in absence of any allegation of mala-fide or perversity. As fairly settled by this Court in catena of judgments, the writ of certiorari being a writ of high prerogative, should not be invoked on mere asking. The purpose of a writ of certiorari for a superior Court is not to review or reweigh the evidence to adjudicate unless warranted. The jurisdiction is supervisory and the Court exercising it, ought to refrain to act as an appellate court unless the facts so warrant. It also ought not re-appreciate the evidence and substitute its own conclusion interfering with a finding unless perverse. The High Court in a writ for certiorari should not interfere when such challenge is on the ground of insufficiency or adequacy of material to sustain the impugned finding. Assessment of adequacy or sufficiency of evidence in the case at hand, fell within the exclusive jurisdiction of the Scrutiny Committee and re-agitation of challenge on such grounds ought not have been entertained by High Court in a routine manner.

18. As per the ratio of larger Bench judgment of this Court in ‘*Dayaram Vs. Sudhir Batham*, (2012) 1 SCC 333’, it reveals that the Court while answering the question as to whether the Civil Courts’ jurisdiction was rightly barred by judgment in *Kumari Madhuri Patil* (supra), observed that a Scrutiny Committee is not an adjudicating authority like a Court or Tribunal, rather it is an administrative body which verifies the fact, investigates into a specific caste claim and ascertains whether the caste claim is correct or not. It was further observed that permitting civil suits to challenge such proceedings with the provisions of appeal and further appeals would defeat the purpose of the scheme. However, such decisions were rightly made available to challenge in proceedings under Article 226 of the Constitution of India ‘which may be within the parameters for invoking the writ jurisdiction by High Court’ in the judgment of *Kumari Madhuri Patil* (supra). Though at the same time, the said observation does not explicitly give a wide power in a writ of certiorari which is not within the purview of issuance of such writ merely because of decision of Scrutiny Committee is under challenge.*****

20. In a recent reference in '*Mah. Adiwasi Thakur Jamat Swarakshan Samiti*' (supra), while answering the question as to 'whether paramount importance should be given to the affinity test while adjudicating upon a caste claim on the basis of a caste certificate issued by a Competent Authority, or in other words, whether the affinity test is a litmus test for deciding a caste claim', this Court observed that if the Scrutiny Committee is satisfied with the documents, it need not mechanically forward the same to the Vigilance Cell for verification in a routine manner. Even as per Rule 17(7) of the 2012 Rules, the Scrutiny Committee is not required to send every document to Vigilance Cell. It is only when the Scrutiny Committee after holding an enquiry is not satisfied with the material produced by the applicant, it may refer to Vigilance Cell. Therefore, in our considered view, the observations made by the High Court in the case at hand regarding not sending the documents to Vigilance Cell is not justified.*****

22. In view of the aforesaid discussion, we are of the considered opinion that High Court inadvertently undertook an erroneous exercise of appreciating evidence in exercise of its jurisdiction under Article 226 of Constitution of India and swayed itself into a roving inquiry which was not expected as per settled legal position. At the cost of repetition, we again observe that under Rule 13(2)(a) of 2012 Rules, the adjudication on the basis of the documents falls solely within the domain of Scrutiny Committee based on the inputs received from the Vigilance Cell. The Scrutiny Committee is an expert forum armed with fact finding authority. The High Court ought not to have interfered, especially when Scrutiny Committee had followed the due procedure under Rule 12, 17 and 18 of the 2012 Rules and that there was nothing perverse about a finding of fact.....”

In another judgment passed in *Kumari Madhuri Patil and Another v. Addl. Commissioner, Tribal Development and others* reported in (1994) 6 SCC 241, the Hon'ble Supreme Court held thus:

“.....15. The question then is whether the approach adopted by the High Court in not elaborately considering the case is vitiated by an error of law. High Court is not a court of appeal to appreciate the evidence. The Committee which is empowered to evaluate the evidence placed before it when records a finding of fact, it ought to prevail unless found vitiated by judicial review of any High Court subject to limitations of interference with findings of fact. The Committee when considers all the material facts and records a finding, though another view, as a court of appeal may be possible, it is not a ground to reverse the findings. The court has to see whether the Committee considered all the relevant material placed before it or has not applied its mind to relevant facts which have led the Committee ultimately record the finding. Each case must be considered in the backdrop of its own facts.

16. Whether appellants are entitled to their further continuance in the studies is the further question. Often the plea of equities or promissory estoppel would be put forth for continuance and completion of further course of studies and usually would be found favour with the courts. The courts have constitutional duty and

responsibility, in exercise of the power of its judicial review, to see that constitutional goals set down in the Preamble, the Fundamental Rights and the Directive Principles of the Constitution, are achieved. A party that seeks equity, must come with clean hands. He who comes to the court with false claim, cannot plead equity nor the court would be justified to exercise equity jurisdiction in his favour. There is no estoppel as no promise of the social status is made by the State when a false plea was put forth for the social status recognised and declared by the Presidential Order under the Constitution as amended by the SC & ST (Amendment) Act, 1976, which is later found to be false. Therefore, the plea of promissory estoppel or equity have no application. When it is found to be a case of fraud played by the concerned, no sympathy and equitable considerations can come to his rescue. Nor the plea of estoppel is germane to the beneficial constitutional concessions and opportunities given to the genuine tribes or castes. Courts would be circumspect and vary in considering such cases.....”

[22] It is seen from record that the petitioners have availed the benefit of the false community certificate/scheduled caste certificate for education, employment etc. The enquiry report dated 05.08.1998 of the Sub-Inspector of Police (Vigilance Orgn.) indicates that all the family members of that the petitioner namely, Sew Prasad Biswas are enjoying all the benefits from the government since long. It is also evident from record that his father late Bhabai Ranjan Biswas got beneficiary loan from the government on the strength of SC certificate. It reveals from the said enquiry report that Sub-Inspector of Police (Vigilance Orgn.) communicated with the then SDO Kailashahar, North Tripura in connection with supply of supporting papers relating to the issue of scheduled caste certificate in favour of the petitioner, Sew Prasad Biswas but, the SDO informed his office that the old records upto 1979 including all documents related to scheduled caste certificate was destroyed by setting those to fire. Since, the enquiry report was made on the basis of oral statements only, re-enquiry was again ordered. Petitioners were

issued notice on several occasions and they have approached this Court earlier by filing writ petitions. State also filed writ appeal before this Court. After giving opportunities petitioners, finally, the impugned order of cancellation of SC certificates has been passed by the respondent-SLSC on 17.08.2023.

[23] It is seen from record that on 13.08.2015, a communication was made by the Block Development Officer, Manu R.D. Block Tripura(D) to the Member Secretary, SLSC (respondent No.5 herein) stating that the petitioner, Mr. Sew Prasad Biswas son of late Bhabani Ranjan Biswas does not belong to scheduled caste community as per the decision of Manu Block Level Scheduled Caste Sub-Committee meeting held on 12.08.2015. It is also seen from record that on 11.12.1997, a resolution of the meeting chaired by one Ranjit Das, the then Manu Block Level Scheduled Caste Sub-Committee was passed stating that the petitioner, Sew Prasad Biswas does not belong to SC community. He belongs to Kayastha community i.e. General category.

[24] Thus, this Court is of the view that as per the procedure contemplated under Rule 6 of the Tripura Scheduled Castes and Scheduled Tribes Reservation Rules, 1992 for cancellation of the caste certificate, on receipt of the complaint, enquiry was ordered by the competent person and in the process of the enquiry sub-committee of scheduled caste was also approached and a resolution from the same has been obtained.

[25] Respondent- SLSC by the impugned order dated 17.08.2023 has drawn a reasonable presumption against the petitioner, Sew Prasad Biswas that he had utilized his influence decades ago for obtaining the caste status certificate, which cannot be ruled out as the SC community persons resolved that he is not a scheduled caste person and belongs to general category and the resolutions stood un-challenged. It is further reflected in the impugned order of SLSC that the petitioner was asked to produce any additional evidence, if he wants to produce, but he denied. The petitioner was also apprised that he could engage a lawyer, if he wanted to engage, but he denied the same. Therefore, basing on the enquiry reports, documentary evidence and oral evidences, the SLSC (respondent No.3 herein) has cancelled the SC certificates of the petitioners.

[26] In view of the above discussion this Court opines that the respondents in the process of cancelling the false community certificate/scheduled caste certificate of the petitioners have followed the procedure contemplated under the Act and Rules. Therefore, this Court feels that there is no infirmity in the impugned order.

In view of the above discussion, this Court finds that it is not a fit case to interfere with the decision of the respondents and the same needs to be confirmed. Hence, the order impugned dated 17.08.2023 is upheld.

Thus, the writ petitions are liable to be dismissed and accordingly, the same are dismissed. As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

JUDGE



Sabyasachi G.

**SABYASACHI
GHOSH**

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