

GAHC010104552024



2024:GAU-AS:13139

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

Case No. : WP(C)/2743/2024

ARJUN SINGH AND 7 ORS
(AGED ABOUT 11 YEARS) (MINOR), REPRESENTED BY HIS FATHER
GAJENDRA SINGH, S/O- RAMNIHORA SINGH, RESIDENT OF VILLAGE-
WATIZUR NO.2, P.O.- FOREST BAZAR, P.S.- KHERONI, DIST- WEST KARBI
ANGLONG, ASSAM, PIN- 782448.

2: SOHALI KUMARI
AGED ABOUT 12 YEARS
(MINOR)
REPRESENTED BY HER FATHER DINESH SINGH
S/O- LATE SURAJ SINGH
RESIDENT OF VILLAGE- MAJHBASTI
P.O.- FOREST BAZAR
P.S.- KHERONI
DIST- WEST KARBI ANGLONG
ASSAM
PIN- 782448

3: SHAMIR SINGH
AGED ABOUT 10 YEARS
(MINOR) REPRESENTED BY HIS FATHER BALIRAM SINGH
S/O- MUNSHI SINGH
RESIDENT OF VILLAGE- MAJHBASTI
P.O.- FOREST BAZAR
P.S.- KHERONI
DIST- WEST KARBI ANGLONG
ASSAM
PIN- 782448

4: RAJANI KUMARI
AGED ABOUT 12 YEARS
(MINOR) REPRESENTED BY HER FATHER NARAD SINGH
S/O- RAMDEV PARIT
RESIDENT OF VILLAGE- WATIZUR NO.3

DAS BASTI
P.O.- WATIZUR
P.S.- KHERONI
DIST- WEST KARBI ANGLONG
ASSAM
PIN- 782448

5: ARYAN KUMAR SINGH
AGED ABOUT 12 YEARS (MINOR)
REPRESENTED BY HIS FATHER PRAMOD SINGH
S/O- PRAKASH NATH SINGH
RESIDENT OF VILLAGE- MAILOO BIHARI GAON
P.O.- MAILOO BAZAR
P.S.- KHERONI
DIST- WEST KARBI ANGLONG
ASSAM
PIN- 782448

6: PARMJIT SINGH
AGED ABOUT 12 YEARS
(MINOR) REPRESENTED BY HIS FATHER ATISH KUMAR SINGH
S/O- KAMAL KISHOR SIGNH
RESIDENT OF VILLAGE- HAJAGAPHER
P.O.- FOREST BAZAR
P.S.- KHERONI
DIST- WEST KARBI ANGLONG
ASSAM
PIN- 782448

7: ANURAG BHAGAT
AGED ABOUT 11 YEARS
(MINOR) REPRESENTED BY HIS FATHER DINESH BHAGAT
S/O- SHIVMANGAL BHAGAT
RESIDENT OF VILLAGE- KHERONI KACHARI GAON
P.O. and P.S.- KHERONI
DIST- WEST KARBI ANGLONG
ASSAM
PIN- 782448

8: GOBINDA BHAGAT
AGED ABOUT 11 YEARS
(MINOR) REPRESENTED BY HIS FATHER MAHENDRA BHAGAT
S/O- RAMNARESH BHAGAT
RESIDENT OF VILLAGE- KHERONI
P.O. and P.S.- KHERONI
DIST- WEST KARBI ANGLONG
ASSAM
PIN- 78244

VERSUS

THE UNION OF INDIA AND 6 ORS
REPRESENTED BY THE COMMISSIONER and SECRETARY TO THE GOVT.
OF INDIA, MINISTRY OF HUMAN RESOURCE DEVELOPMENT, NEW DELHI

2:NAVODAYA VIDYALAYA SAMITI
REPRESENTED BY ITS CHAIRMAN HAVING ITS HEAD OFFICE AT B-15
INSTITUTIONAL AREA
SECTOR 62
NOIDA
UTTAR PRADESH
PIN- 201307

3:THE DEPUTY COMMISSIONER
REGIONAL OFFICE
NAVODAYA VIDYALAYA SAMITI
SHILLONG
BARIK POINT
TEMPLE ROAD
LOWER LACHUMIERE
SHILLONG
PIN- 793001

4:THE PRINCIPAL
JAWAHAR NAVODAYA VIDYALAYA
BAITHALANGSO
P.O.- HONGKRAM
DIST- WEST KARBI ANGLONG
ASSAM
PIN- 782450

5:THE DEPUTY COMMISSIONER
WEST KARBI ANGLONG -CUM- CHAIRMAN
JAWAHAR NAVODAYA VIDYALAYA
BAITHALANGSO
P.O. and P.S.- HAMREN
DIST- WEST KARBI ANGLONG
ASSAM

6:THE COMMISSIONER and SECRETARY
WELFARE OF PLAIN TRIBES and BACKWARD CLASSES DEVELOPMENT
GOVT. OF ASSAM
DISPUR
GUWAHATI-06

7:THE STATE LEVEL CASTE SCRUTINY COMMITTEE

REPRESENTED BY ITS CHAIRMAN
WELFARE OF PLAN TRIBES AND BACKWARD CLASSES DEVELOPMENT
DISPUR
GUWAHAT-0

Advocate for the Petitioner : MR. R ALI, MR M Z SHAH

Advocate for the Respondent : DY.S.G.I., MS. R S CHOUDHURY (R-2,3,4),GA, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

13/09/2024

Heard Mr. R Ali, learned counsel for the petitioners and Ms. K Deka, learned counsel appearing on behalf of Ms. R Devi, learned Central Government Counsel for the respondent No. 1. Also heard Ms. R S Choudhury, learned Standing counsel, Navodaya Vidyalaya Samity for the respondent Nos. 2, 3 & 4; Mr. G Pegu, learned Government Advocate, Assam for the respondent No. 5 and Mr. R Dhar, learned Standing counsel, WPT & BC Department for the respondent Nos. 6 & 7.

2. Petitioners herein are minors represented by their fathers.

3. It is submitted that though they belong to 'Koiri' and 'Bhagat' communities, recognized as OBC/MOBC by the Government of India as well as by the State of Assam, the Deputy Commissioners have not issued the required Caste Certificate to them for which they could not take admission in Jawahar Navodaya Vidyalaya at Baithalangso, West Karbi Anglong. Hence, this writ petition for a direction to the Principal, Jawahar Navodaya Vidyalaya, Baithalangso, Hongkaram, West Karbi Anglong to allow the admission of the petitioners in Class-VI in its school for the session 2024-2025 and further to direct the respondent No. 5, Deputy Commissioner, West Karbi Anglong-cum-Chairman of Jawahar Navodaya Vidyalaya to do the needful for issuance of Caste Certificates to them.

4. During the deliberation of the matter, Mr. Pegu, learned Government Advocate, Assam placed a written instruction of the District Commissioner, West Karbi Anglong, Hamren dated 06.09.2024 indicating that the facility for acceptance of applications for Caste Certificates in the concerned

portal has already been provided stating that in terms of the Gazette of India: Extraordinary, Ministry of Social Welfare Resolution, New Delhi, dated 10.09.1993, No. 12011/68/93-BCC (C) and Tribal Areas & Welfare of Backward Classes Department's letter No. TAD/BC/268/75/37 dated 27.11.1975, eligible citizen can avail such Caste Certificate provided he/she fulfills the criteria for issuance of such certificate.

5. By the said communication dated 06.09.2024, the District Commissioner, West Karbi Anglong, Hamren respondent No. 5 also specified that 'Koiri' and 'Bhagat' communities, in general apply for Caste Certificate under the Sub Caste 'Koiri', who are recognized as More Other Backward Communities (MOBC) by the State of Assam only if they belong to Tea or Ex Tea Garden Labourers/Tribes that are verified/recommended by Chah Janajati Jatiya Sanmilani for issuance of Caste Certificate in the district of Karbi Anglong as been communicated vide letter eCF No. 375140/107 which have already been facilitated in the system since the start of the portal.

6. On being enquired, the petitioners could not place as to when they applied for their respective Caste Certificates except saying that the portal did not accept their application. The petitioners also failed to state as to when they tried the relevant website to obtain the relevant Caste Certificates for them.

7. Ms. Choudhury, learned Standing counsel, JNV for the respondent Nos. 2, 3 & 4, by placing the Prospectus of the Jawahar Navodaya Vidyalaya Selection Test, 2024 annexed to the affidavit-in-opposition filed by the said respondents submitted before the Court that such prospectus was published in the Month of July, 2023 itself and was also available in the website of the JNV since July, 2023.

8. Placing the provision of Clause 3.1 of the said Prospectus of the JNV for the admission, 2024-2025 under the heading 'Provisional Selection and Admission' on behalf of the respondents in the JNV, Ms. Choudhury, submitted that provisional selection in the test will not vest any right on the candidate to secure admission into the JNV and that at the time of seeking actual admission, each provisionally selected candidate will have to produce all relevant original certificates, as prescribed by the Navodaya Vidyalaya Samiti. Further, until admission, the selection is provisional only and the candidates are therefore advised to apply for Transfer Certificate from parent school, only after the verification of documents and confirmation of admissibility by the respective JNV.

9. Placing the provisions of Clause 3.6 of the said Prospectus of the JNV for the admission,

2024-2025, Ms. Choudhury, also placed that candidates belonging to the Scheduled Caste (SC), Scheduled Tribe (ST) and Other Backward Class (OBC) are required to produce a certificate of Scheduled Caste/Scheduled Tribe/OBC at the time of seeking admission, if provisionally selected. The candidates provisionally selected under OBC quota have to submit OBC certificate as per prescribed format of Central List and such certificate should be obtained from the competent authority well in advance, so that it can be submitted to the Principal of JNV concerned at the time of verification of documents.

10. From the decision of the Hon'ble Supreme Court in the case of *Madhuri Patil Vs. Commissioner Tribal Development* reported in (1994) 6 SCC 241, Ms. Choudhury, learned Standing counsel, JNV submitted that at para 13 (iii), the Hon'ble Apex Court have specifically observed and directed that — *The application for verification of the Caste Certificate by the Scrutiny Committee shall be filed at least six months in advance before seeking admission into Educational Institution or an appointment to a post.*

11. Ms. Choudhury, learned Standing counsel, JNV further submitted that since the Prospectus for the JNV Selection Test, 2024 for admission to Class-VI in the JNV for the Session 2024-2025 was published way back in July, 2023, the petitioners could have applied for their Caste Certificates long back knowing that at the time of their admission they have to produce the Caste Certificates in original and that in spite of their such knowledge, since the petitioners did not apply for their caste certificate for the relevant time, the cases of the petitioners should not be considered and should be rejected.

12. It is also submitted by Ms. Choudhury, learned Standing counsel, JNV that the classes for the academic session of Class-VI in the JNV started from the month of June, 2024 and it is more than three months the petitioners are away from such classes but submitting the case that if the petitioners at this stage are to be directed for their admission they will lack behind in their classes compared to other students of their classes.

13. Ms. Choudhury, learned Standing counsel, JNV from the Annexures annexed by the petitioners in their petition placed before the Court that the petitioner No. 1, Arjun Singh, placed the Caste Certificate of his father and mother showing them to be "Koiri Caste/Community" issued way back on 12.09.1995 and 20.11.2009 respectively. Similarly, the petitioner No. 5, Aryan Kumar Singh placed the Caste Certificate of his father Pramod Kr. Singh issued on 08.02.2007 stating that he belongs to "Koiri Caste/Class Community-MOBC and the petitioner No. 7 Anurag Bhagat

annexed the Caste Certificate of his father, Dinesh Bhagat belonging to "MOBC Koiri Ex Tea Garden Community". The rest of the petitioners did not submit any such Caste Certificates on their behalf.

14. Ms. Choudhury, learned Standing counsel, JNV submitted that though the petitioners were provisionally selected for the admission in Class-VI in the JNV, Baithalangso and Diphu but as they failed to produce the original Caste Certificates, whereas, the genuine OBC candidates, who have also been selected in the written test for admission could not be admitted in the said school and thereby they have been deprived of from their admission.

15. Ms. Choudhury, learned Standing counsel, JNV relying on the judgment of the Hon'ble Supreme Court in the case of Madhuri Patil (supra) placed para 13 of the said judgment which reads as follows: -

"13. The admission wrongly gained or appointment wrongly obtained on the basis of false social status certificate necessarily has the effect of depriving the genuine Scheduled Castes or Scheduled Tribes or OBC candidates as enjoined in the Constitution of the benefits conferred on them by the Constitution. The genuine candidates are also denied admission to educational institutions or appointments to office or posts under a State for want of social status certificate. The ineligible or spurious persons who falsely gained entry resort to dilatory tactics and create hurdles in completion of the inquiries by the Scrutiny Committee. It is true that the applications for admission to educational institutions are generally made by a parent, since on that date many a time the student may be a minor. It is the parent or the guardian who may play fraud claiming false status certificate. It is, therefore, necessary that the certificates issued are scrutinised at the earliest and with utmost expedition and promptitude. For that purpose, it is necessary to streamline the procedure for the issuance of social status certificates, their scrutiny and their approval, which may be the following:

- 1. The application for grant of social status certificate shall be made to the Revenue Sub-Divisional Officer and Deputy Collector or Deputy Commissioner and the certificate shall be issued by such officer rather than at the Officer, Taluk or Mandal level.*
- 2. The parent, guardian or the candidate, as the case may be, shall file an affidavit duly sworn and attested by a competent gazetted officer or non-gazetted officer with particulars of castes and sub-castes, tribe, tribal community, parts or groups of tribes or tribal communities, the place from which he originally hails from and other particulars as may be prescribed by the Directorate concerned.*
- 3. Application for verification of the caste certificate by the Scrutiny Committee shall be filed at least six months in advance before seeking admission into educational institution or an appointment to a post.*
- 4. All the State Governments shall constitute a Committee of three officers, namely, (I) an Additional or Joint Secretary or any officer high-er in rank of the Director of the department concerned, (II) the Director, Social Welfare/Tribal Welfare/Backward Class Welfare, as the case may be, and (III) in the case of Scheduled Castes another officer who has intimate knowledge in the verification and issuance of the social status certificates. In the case of the Scheduled Tribes, the Research Officer who has intimate knowledge in identifying the tribes, tribal communities, parts of or groups of tribes or tribal communities.*

5. Each Directorate should constitute a vigilance cell consisting of Senior Deputy Superintendent of Police in over-all charge and such number of Police Inspectors to investigate into the social status claims. The Inspector 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 from. The vigilance officer should personally verify and collect all the facts of the social status claimed by the candidate 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 candidate in relation to their caste etc. or such other persons who have knowledge of the social status of the candidate and then submit a report to the Directorate together with all particulars as envisaged in the pro forma, 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 Director concerned, on receipt of the report from the vigilance officer if he found the claim for social status to be "not genuine" or 'doubtful' or spurious or falsely or wrongly claimed, the Director concerned should issue show-cause notice supplying a copy of the report of the vigilance officer to the candidate by a registered post with acknowledgement due or through the head of the educational institution concerned in which the candidate is studying or employed. The notice should indicate that the representation or reply, if any, would be made within two weeks from the date of the receipt of the notice and in no case on request not more than 30 days from the date of the receipt of the notice. In case, the candidate seeks for an opportunity of hearing and claims an inquiry to be made in that behalf, the Director on receipt of such representation/reply shall convene the committee and the Joint/Additional Secretary as Chairperson who shall give reasonable opportunity to the candidate/parent/guardian to adduce all evidence in support of their claim. A public notice by beat of drum or any other convenient mode may be published in the village or locality and if any person or association opposes such a claim, an opportunity to adduce evidence may be given to him/it. After giving such opportunity either in person or through counsel, the Committee may make such inquiry as it deems expedient and consider the claims vis-à-vis the objections raised by the candidate or opponent and pass an appropriate order with brief reasons in support thereof.

7. In case the report is in favour of the candidate and found to be genuine and true, no further action need be taken except where the report or the particulars given are procured or found to be false or fraudulently obtained and in the latter event the same procedure as is envisaged in para 6 be followed.

8. Notice contemplated in para 6 should be issued to the parents/guardian also in case candidate is minor to appear before the Committee with all evidence in his or their support of the claim for the social status certificates.

9. 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, they should pass an order cancelling the certificate issued and confiscate the same. It should communicate within one month from the date of the conclusion of the proceedings the result of enquiry to the parent/guardian and the applicant.

10. In case of any delay in finalising the proceedings, and in the meanwhile the last date for admission into an educational institution or appointment to an officer post, is getting expired, the candidate be admitted by the Principal or such other authority competent in that behalf or appointed on the basis of the social status certificate already issued or an affidavit duly sworn by the parent/guardian/candidate before the competent officer or non-official and such admission or appointment should be only provisional, subject to the result of the inquiry by the

Scrutiny Committee.

11. The order passed by the Committee shall be final and conclusive only subject to the proceedings under Article 226 of the Constitution.

12. No suit or other proceedings before any other authority should lie.

13. The High Court would dispose of these cases as expeditiously as possible within a period of three months. In case, as per its procedure, the writ petition/miscellaneous petition/matter is disposed of by a Single Judge, then no further appeal would lie against that order to the Division Bench but subject to special leave under Article 136.

14. In case, the certificate obtained or social status claimed is found to be false, the parent/guardian/the candidate should be prosecuted for making false claim. If the prosecution ends in a conviction and sentence of the accused, it could be regarded as an offence involving moral turpitude, disqualification for elective posts or offices under the State or the Union or elections to any local body, legislature or Parliament.

15. As soon as the finding is recorded by the Scrutiny Committee holding that the certificate obtained was false, on its cancellation and confiscation simultaneously, it should be communicated to the educational institution concerned or the appointing authority by registered post with acknowledgement due with a request to cancel the admission or the appointment. The Principal etc. of the educational institution responsible for making the admission or the appointing authority, should cancel the admission/appointment without any further notice to the candidate and debar the candidate from further study or continue in office in a post."

16. It is seen that the petitioners are yet to obtain their Caste Certificates. In the meanwhile, the necessary portal for application for Caste Certificate has already been facilitated in the system in the district of West Karbi Anglong, as communicated by the District Commissioner, West Karbi Anglong, Hamren, noted above.

17. After hearing the learned counsel for the parties and considering the entire aspect of the matter, it is directed that in the event of any such application made by the petitioners pertaining to their respective Caste Certificates and on obtaining those by following the due procedure from the authority concerned, they shall submit those Caste Certificates before the authority concerned of the JNV at Baithalangso within the time stipulated by the JNV authorities for admission of the petitioners in the respective classes at JNV Baithalangso.

18. However, it is made clear that in the event the petitioners fail to submit their respective Caste Certificates before the authorities concerned of the JNV at Baithalangso, within the time stipulated by it, the authorities concerned of the JNV at Baithalangso shall do the needful in accordance with law and as specified in its Prospectus for admission of the students in the respective classes for the relevant session.

- 19.** With the above observations and directions, this writ petition stands disposed of.
- 20.** Copy of the communication of the District Commissioner, West Karbi Anglong, Hamren dated 06.09.2024 placed by Mr. G. Pegu, learned Government Advocate, Assam for the respondent No. 5 be kept as a part of the record.

JUDGE

Comparing Assistant