

THE HIGH COURT OF TRIPURA
AGARTALA

WP(C) 205 OF 2009

Sri Suman Deb Barma,
Son of Sri Mintu Deb Barma,
Resident of Village- Debendra Para,
P.O. -Gabardi,
P.S.-Takerjala,
District- West Tripura.

..... **Petitioner.**

- V e r s u s -

- 1. The State of Tripura**
(to be represented by the Chief Secretary
to the Government of Tripura, Agartala);
- 2. The Secretary to the Government of Tripura,**
Home Department, Agartala;
- 3. The Commandant, 6th Bn.,**
Tripura State Rifles (IR-II),
P.O. -Champaknagar,
P.S.-Teliamura,
District-West Tripura;
- 4. The Director of Welfare for Scheduled Tribes,**
Government of Tripura, Pandit Nehru Complex
(Gurkha Basti), Agartala;
- 5. The Member -Secretary,**
State Level Scrutiny Committee
(Directorate of Welfare for Scheduled
Tribes, Government of Tripura), Agartala.

..... **Respondents.**

WP(C) 378 OF 2009

Sri Suman Deb Barma,
Son of Sri Mintu Deb Barma,
Resident of Village- Debendra Para,
P.O. -Gabardi,

P.S.-Takerjala,
District- West Tripura.

.....**Petitioner.**

- V e r s u s -

- 1. The State of Tripura**
(to be represented by the Chief Secretary
to the Government of Tripura, Agartala);
- 2. The Secretary to the Government of Tripura,**
Home Department, Agartala;
- 3. The Commandant, 6th Bn.,**
Tripura State Rifles (IR-II),
P.O. -Champaknagar,
P.S.-Teliamura,
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- 4. The Director of Welfare for Scheduled Tribes,**
Government of Tripura, Pandit Nehru Complex
(Gurkha Basti), Agartala;
- 5. The Member -Secretary,**
State Level Scrutiny Committee
(Directorate of Welfare for Scheduled
Tribes, Government of Tripura), Agartala.

..... **Respondents.**

**BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
THE HON'BLE MR. JUSTICE S.C. DAS**

For the petitioner	: Mr. B. Das, Sr. Advocate Mr. D. Chakraborty, Advocate
For the respondents	: Mr. TD Majumder, G.A.
Date of hearing	: 10.6.2015
Date of judgment	: 18.8.2015
Whether fit for reporting	: NO.

JUDGMENT & ORDER

(Deepak Gupta, C.J.)

These two writ petitions are being disposed of by a common judgment since the issues and fact and law involved in both the cases are identical.

2. It is not disputed that the petitioner Sri Suman Debbarma applied for the post of rifle man in the Tripura State Rifles purporting to be a member of the Scheduled Tribes belonging to the Tripuri Community. On the basis of this Scheduled Tribes Certificate issued on 16th April, 2000 and not 16th April 2001 as claimed by the claimant he was selected as rifleman in the Tripura State Rifles against a post meant for the Scheduled Tribes Community. It appears that a complaint was filed against the petitioner that he had wrongly obtained Scheduled Tribes Certificate and this complaint was referred to the State Level Scrutiny Community constituted by the State Authority. The said Committee issued notice to the petitioner, who filed reply to the show cause notice. The committee thereafter gave opportunity of hearing to the petitioner in these proceedings and he was represented by his counsel. The petitioner's Scheduled Tribes Certificate was found to be false and also accordingly canceled on 21.09.2006. At that time the petitioner did not challenge the order

of the State Level Scrutiny Committee (SLSC) though he appeared before the committee and was represented by a counsel.

3. On the basis of the finding given by the committee disciplinary proceedings were initiated against the petitioner. The Inquiry Officer submitted his report on 25th May 2009 holding that the charges leveled against the petitioner were proved. The charges were that the petitioner at the time of appointment had produced a fake Scheduled Tribes Certificate and that he was not eligible to be appointed against the post. On the basis of this inquiry report the provisional punishment order was issued to the petitioner on 2nd June, 2009. Thereafter, the petitioner filed reply to the same and also filed the WP (C) 205 of 2009 challenging the said provisional punishment order as well as the inquiry proceedings. Thereafter, the petitioner also filed WP (C) 378 of 2009 on 27th November, 2009 and challenged the order dated 21.09.2006 passed by the State Level Scrutiny Committee (SLSC). It will be pertinent to be mentioned that this writ petition has been filed more than 3 (three) years later and is obviously belated.

4. Even now in this writ petition it is not denied that the petitioner is not a member of the Tripuri Community. The case set up by the petitioner is that his family used the surname Deb Barma for more than 50 years. According to the petitioner he was born in the year 1980 and he was always given to understand by his family

members that he is a member of a Schedule Tribe. The petitioner also states that his grandfather and his uncle were also given Scheduled Tribes Certificates.

5. Here it would be pertinent to mention that earlier the members of the Laskar Community were also considered to be members of the Scheduled Tribes by treating them to be the part and parcel of the Tripuri Community. Finally, the Gauhati High Court held that the Laskar Community is not part of the Tripuri Community and the member of the Laskar Community cannot be considered to be Scheduled Tribes. The Apex Court upheld the decision of the Gauhati High Court. Therefore, members of the Laskar Community cannot be held to be Scheduled Tribe.

6. It may be that the petitioner's grandfather had been issued the Scheduled Caste Certificate when the law in this behalf was unclear. The SLSC has found the petitioner to be a member of the Laskar Community and not entitled to get benefit of the Scheduled Tribes. This is a pure finding of fact which cannot be interfered with in the writ proceedings.

7. Reliance is placed by Sri. Das on the judgment of the Apex Court ***Dattu Namdev Thakur v. State of Maharashtra and Ors. : 2012 AIR SCW 203*** wherein it was held that the

benefit which had already enjoyed by the candidate in obtaining the BDS degree would not be taken away from the candidate even though he was found to have wrongly obtained the Scheduled Caste Certificate. This judgment also no application to the facts of this case because in that case the Apex Court only held that the BDS degree was not to be withdrawn from the petitioner. In the present case also the petitioner who got employment by submitting a false Scheduled Caste Certificate has served to the department for many years. He has drawn salary and allowances which cannot be withdrawn. However, we are clearly of the view that he is not entitled to remain in service any longer.

8. Therefore, we find no merit in the petitions which are accordingly dismissed.

JUDGE

CHIEF JUSTICE

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