

THE HIGH COURT OF TRIPURA
AGARTALA

WP(C) 365 of 2008

Sri Shishir Kumar Das,
S/O Sri Nagar Bashi Das,
Resident of village- Shibnagar, P.O.- Gajaria,
P.S.- Bishalgarh, District- West Tripura.

.... **Petitioner**

VERSUS

- 1. The State of Tripura,** Agartala,
(to be served upon the Chief Secretary),
To the Government of Tripura, Agartala.
- 2. The Secretary,**
To the Government of Tripura,
Department of Welfare of Scheduled Caste & O.B.Cs
Agartala, West Tripura.
- 3. The Director,**
For Welfare of Scheduled Caste & O.B.Cs,
Government of Tripura, Pandit Nehru Complex,
Gorkha Basti, Agartala, West Tripura.
- 4. The State Level Scrutiny Committee,**
Constituted by the Government of Tripura vide
Scheduled Caste, O.B.Cs and Minorities Welfare
Department's Notification, dated 26.6.2007,
Represented by its Member Secretary,
C/O Directorate for Welfare of Scheduled Caste &
O.B.Cs, Government of Tripura, Pandit Nehru Complex
Gorkha Basti, Agartala, West Tripura.
- 5. The Director,**
Family Welfare & Preventive Medicine,
Government of Tripura, Pandit Nehru Complex,
Gorkha Basti, Agartala, West Tripura.

.... **Respondents**

BEFORE

THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA
THE HON'BLE MR. JUSTICE U.B. SAHA

For the petitioner : None.

For the respondents : Mr. S.Chakraborty, Addl. GA

Date of hearing and : 22.01.2015.
delivery of judgment.

Whether fit for reporting : NO

JUDGMENT & ORDER(ORAL)

Deepak Gupta, CJ

This matter came up before this Court on 30.10.2014 when at the request of learned counsel for the petitioner adjournment was granted and the matter was listed for 27.11.2014 and it was ordered that no further adjournment shall be granted. When the matter came up before the Court on 27.11.2014 Mr. B. Das, learned senior counsel for the petitioner again sought an adjournment. At his request the matter was adjourned for 22.01.2015. Today none is present for the petitioner though the case has been called out twice. Therefore, we proceed to decide the petition on merits itself.

2. The petitioner was granted a certificate showing him to be a member of the Scheduled Caste namely 'Jalia Kaibartya' community 29.01.1977. He thereafter after joined service in May,1990 on the strength of the Scheduled Caste certificate as a Scheduled Caste community. On 11.12.1991 a notice was issued to the petitioner asking him to show cause why the Schedule Caste certificate granted in his favour should not be cancelled. The petitioner submitted reply to this notice on 03.01.1992. Thereafter, another letter was written to him on 04.01.2003 asking him to deposit his original Scheduled Caste certificate. He stated that his original certificate was not necessary for verification of the same and in his reply he clearly stated as follows,-

"In this connection I want to make it clear that ex-parte decision that I do not belong to Scheduled Caste community is totally false and mischievous and in case it is necessary I will challenge that decision by necessary litigation".

Therefore, the petitioner neither supplied the original certificate but alleged that the ex-parte decision taken against him was incorrect. Again

he was asked to submit his original Scheduled Caste certificate so that the same could be verified and this time he replied that he had searched for his original certificate and the same was not available with him but some photocopies are available and, therefore, he submitted a photocopy of the Scheduled Caste certificate. Thereafter, a communication was addressed to the petitioner directing him to attend the Outpost of the Tripura Police at AD Nagar in respect to the enquiry being conducted with regard to his Scheduled Caste certificate. He was also directed to appear before the Director of Welfare along with all the relevant records to show that he was a member of the Scheduled Caste.

3. Another show cause notice was issued to him on 03.06.2005 wherein it has been alleged that a complaint had been received against the petitioner that he does not belong to the Scheduled Caste community and an enquiry is to be conducted. This notice was issued by the Director of the Scheduled Caste and O.B.Cs. It appears that an enquiry had been conducted and in the course of the enquiry the statement of the petitioner Shishir Kumar Das and one Santosh Biswas was recorded. The Enquiry Officer was of the opinion that the petitioner belongs to the 'Baruijibi' community locally known as 'Lata Baidya' which was recently recognized as Other Backward Classes but was not a Scheduled Caste. Therefore, it was found that the certificate issued in favour of the petitioner was in correct.

4. In the reply filed by the State, it is stated that after the Vigilance Officer had opined that the petitioner is not a member of the Scheduled Caste community, show cause notice was issued to the petitioner by the Scrutiny Committee as to why his Scheduled Caste certificate should not

be cancelled. He was also directed to produce all the relevant documents and evidence in support of his claim that he belongs to the Scheduled Caste. According to the respondents, the petitioner only filed one reply but did not place on record any evidence or documentary record. The petitioner submitted that his appearance before the Scrutiny Committee and production of documents would be a futile exercise and, therefore, considering the reply of the petitioner the Scrutiny Committee decided to cancel the certificate of the petitioner.

5. We have perused the reply of Sri Shishir Kumar Das which has been annexed and we find that he has given no clear cut reply whether he belongs to a Schedule Caste and if so, to which caste. He has only stated that since earlier show cause notice was issued to him in the year 1991 and no action was taken, therefore, no action can be taken in the year 2005. He has relied upon the judgment of the Apex Court in **1992(2) SCSLJ 218 (Guljar Singh vs. Sub Divisional Magistrate & Another)** wherein it has been held that the Scheduled Caste certificate can be cancelled only after notice to a party. This show cause notice had been given to the petitioner but he cared not to file a reply on merits nor to attach any documents to show that he was a member of the Scheduled Caste.

6. In view of the stand of the petitioner in not even caring to reply to the observation of the Scrutiny Committee on merits, he is not entitled to claim that no proper opportunity was given to him. Therefore, we find no merit in the petition and the same is accordingly dismissed. No cost.

JUDGE

CHIEF JUSTICE

Saikat