

THE HIGH COURT OF TRIPURA
AGARTALA

WP(C) 340 of 2009

Smt. Rekha Bhowmik

Wife of Sri Sunil Chandra Banda and
daughter of Late Gopal Krishna
Bhowmik of village Taijiling,
P.O. Bagmara, P.S. Melaghar,
District-West Tripura.

..... Petitioner.

- Versus -

- 1. The State of Tripura,**
Agartala, (to be served upon
the Chief Secretary to the
Government of Tripura)
- 2. The Secretary**
to the Government of Tripura,
Department of Welfare
for Scheduled Castes and OBCs,
Government of Tripura.
- 3. The State Level Scrutiny Committee**
represented by its Member Secretary
(Directorate for Welfare of SCs & OBCs),
Government of Tripura, Agartala.
- 4. The Director of Health Services,**
Government of Tripura,
Agartala.

..... Respondents

BEFORE
THE HON'BLE MR. JUSTICE U.B.SAHA

For the petitioner : Mr. D Chakraborty, Advocate.

For the respondents : Mr. TD Majumdar, GA.

Date of hearing & delivery
of Judgment and Order : **13.07.2015**

Whether fit for reporting : No.

JUDGEMENT AND ORDER (ORAL)

The petitioner Smt. Rekha Bhowmik filed this writ petition
challenging the order dated 16.09.2009 passed by the respondent-
State Level Scrutiny Committee (**for short, "SLSC"**) whereby and

whereunder the SLSC cancelled the SC certificate No. 2619/F.1(6)/SDO/SNM/CTZN/78 dated 23.06.1978 issued by the Sub-Divisional Officer, Sonamura, West Tripura in her favour and was directed to submit her original caste certificate.

2. Heard Mr. D Chakraborty, learned counsel for the petitioner as well as Mr. TD Majumdar, learned GA for the respondents.

3. The petitioner contended that she belongs to 'Mahisyadas' community which is recognized as "Scheduled Caste" Community in the State of Tripura and a certificate to that effect was issued in her name on 23.06.1978, after proper inquiry. Copy of the said certificate is annexed as Annexure-A to the writ petition.

4. A show cause notice along with vigilance report was issued to her on 21.02.2007 but the said notice could not be served upon her by the Postal Department. Thereafter, she was given another opportunity by way of publishing advertisement in the local newspaper on 18.05.2008 to collect the show cause notice from the office of the Director, SCs & OBCs, Gurkhabasti, Agartala. The petitioner appeared and received the show cause notice along with the vigilance report from the office of the Director on 19.05.2008.

5. She submitted her reply to the show cause notice and in her reply she mentioned about the cancellation of SC certificate of her full blooded brother namely, Sri Debabrata Bhowmik but did not mention about the cancellation of SC certificate of her other three full blooded brothers namely, Anuthosh Bhowmik, Priyatosh Bhowmik, and Bhabatosh Bhowmik by the SLSC. In her reply, she has also stated that

her brother Sri Debabrata bhowmik has filed a writ petition being WP(C) 341/2007.

6. It is further submitted that in the show cause notice dated 21.02.2007 (Annexure-B to the writ petition) it has been specifically stated that the report of the vigilance cell indicates that the petitioner belonged to Mahishyadas Community which is recognized as scheduled caste and as such the SLSC should not have proceeded further for cancelling the caste certificate of the petitioner.

7. It is also the case of the petitioner that the SLSC cancelled the certificate of the petitioner without following the decision of the Supreme Court in **Director of Tribal Welfare, Government of Andhra Pradesh vs. Laveti Giri and Another**, reported in **(1995) 4 SCC 32**.

8. The respondents did not file any counter affidavit challenging the contentions of the petitioner.

9. Mr. Chakraborty, learned counsel for the petitioner while urging for setting aside the order of cancellation of the scheduled caste certificate would contend that this case is fully covered by a decision of this Court in WP(C) 314/2007 dated 02.08.2014 filed by the full blooded brother of the petitioner wherein this Court allowed the writ petition taking note of the decision of the Apex Court in **Laveti Giri** (supra) as well as **Kumari Madhuri Patil & Anr. V. Addl. Commissioner, Tribal Development & Ors.**, reported in **(1994) 6 SCC 241** by way of setting aside the order of cancellation of caste certificate of her brother.

10. Mr. Dutta Majumdar, learned Govt. Advocate for the respondents submitted that the petitioner was provided with all the opportunities in accordance with law. He admitted that the petitioner in her reply to the show cause notice specifically stated that her full blooded brother Sri Debabrata Bhowmik filed a writ petition being WP(C) 314/2007 which was at that time pending before the Court and ultimately this Court allowed the aforesaid writ petition cancelling the order of the SLSC regarding cancellation of caste certificate of her brother.

11. I have gone through the judgment in WP(C) 314/2007 wherein the relevant portions of the judgments of **Laveti Giri** (supra) and **Kumari Madhuri Patil** (supra) have been reproduced. Thus, it is not necessary to reproduce the same again.

12. In the instant case, the respondents did not file any counter affidavit denying the allegations of the petitioner. It also appears from the show cause notice dated 21.02.2007 that an inquiry was conducted by the officials of the Special Vigilance Cell for ascertaining the caste status of the petitioner and the report of the Dy. Suptd. of Police, Special Vigilance Cell indicates that the petitioner belongs to Mahishyadas Community which is recognized as Scheduled Caste in the State of Tripura.

13. It also appears from the record that the Vigilance authority in its report dated 06.01.2005 specifically stated that her SC certificate issued by the Sub-Divisional Officer, Sonamura on 23.06.1978 is genuine but the SLSC in its order though noted the said

fact but did not give any reason as to why the said report has not been accepted by them.

14. Mr. Chakraborty submits before this Court that by the judgment dated 02.08.2014 in WP(C) 314/2007 filed by the full blooded brother of the petitioner, the order of the SLSC cancelling his caste certificate has been quashed and the respondents did not file any appeal against the aforesaid judgment.

15. If the aforesaid submission of Mr. Chakraborty is correct then the full blooded brother of the petitioner belongs to the SC community and the caste certificate issued by the SLSC in his favour remains as it is. When the full blooded brother of the petitioner belongs to SC community then it cannot be said that the petitioner does not belong to the SC community. Moreso, when the respondents did not file any counter against the claim of the petitioner there is no other option before this Court except to set aside the impugned order dated 16.09.2009 passed by the SLSC. Accordingly, the same is set aside.

16. The writ petition is accordingly disposed of.

JUDGE