

IN THE HIGH COURT OF TRIPURA
AGARTALA

W.A No 03 of 2015

Upon death of Lt. Santosh Majumder,
S/o Late Mohan Bashi Majumder,

His legal heirs namely,

- A) Smt. Sabitri Majumder,**
- B) Sri Sanjit Majumder**
- C) Sri Sujit Majumder**

All are resident of Village –
Champaknagar, P.O. & P.S. Belonia,
District – South Tripura.

- D) Smt. Sikha Majumder (Datta),**
wife of Sri Bhupal Datta, R/O. Vill-
Santirbazar, P.O. & P.S.
Santirbazar, District- South Tripura.

..... **Appellant**

- V e r s u s -

- 1. The State of Tripura,**
represented by its Secretary
Cum-Commissioner to the
Department of Education,
Government of Tripura, P.O.
Kunjaban, P.S. New Capital
Complex, District – West Tripura.
- 2. The Chairman, Commissioner and Secretary**
(Schedule Castes and OBCs Welfare),
Agartala, West Tripura.
- 3. The Director of School Education,**
Government of Tripura, Agartala,
District – West Tripura.
- 4. The Member Secretary**
(Schedule Castes and OBCs Welfare),
Agartala, District-West Tripura.
- 5. The Member,**
(Joint Director, Schedule Castes and OBCs Welfare),
Agartala, District-West Tripura.

6. The Member Secretary,

State Level Scrutiny Committee,
 Directorate for Welfare of
 Schedule Castes and OBCs
 Tripura, Agartala, District – West
 Tripura.

7. The Sub-Divisional Magistrate,

P.O. & P.S. Belonia, South Tripura

..... Respondents

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

For the appellant : Mr. A.C. Bhowmik, Sr. Advocate
 Mr. A. Bhowmik, Advocate.

For the respondents : Mr. T.D. Majumder, G.A.

Date of hearing and : **10.02.2015**
 delivery of judgment
 and order

Whether it is fit for reporting :

Yes	No
	✓

JUDGMENT & ORDER (ORAL)

(Deepak Gupta, CJ)

This writ appeal is directed against the judgment dated 14.11.2014 delivered in W.P.(C) No.312 of 2006 by a learned Single Judge of this Court whereby the writ petition filed by the writ petitioner, the deceased appellant herein, Santosh Majumder, was dismissed.

[2] The short dispute is whether the petitioner was required to be given a hearing by the State Level Scrutiny Committee and whether such hearing has been given or not.

[3] The appellant got employment in the Department of School Education and claimed that he belonged to the 'Mahishya Das' community, a community recognized as Scheduled Castes in Tripura. A vigilance inquiry was held and as per this inquiry report it was found that the petitioner did not belong to the Scheduled Caste community and thereafter, his Scheduled Caste certificate was cancelled. Then petitioner filed the writ petition being Civil Rule No.55 of 1994 before the Gauhati High Court, Agartala Bench, Agartala, which was allowed and the operative portion of the order reads as follows:

"The learned senior Govt. Advocate submits that in the meantime, a scrutiny committee has been constituted under the Scheduled Caste Welfare Deptt. to examine such matters.

In view of above, the Sub-Divisional Officer, Belonia is hereby directed to furnish a copy of the report of the Deputy Collector, Belonia to the petitioner and thereafter, refer the matter to the said scrutiny committee who shall pass necessary orders after hearing the petitioner. The petitioner shall appear before the Sub-Divisional Officer, Belonia on 16th September, 2002 and furnish a copy of this order, thereafter, the S.D.O. shall proceed with the matter as directed.

The writ petition stands disposed of."

[4] Thereafter, in compliance to the judgment of the Court, copy of report was supplied to the petitioner by the Sub-Divisional Magistrate, Belonia. The State Level Scrutiny Committee also issued notice to the petitioner. The reply sent by the petitioner to the notice reads as follows:

**"To
The Director for Welfare of
Sch. Castes & OBC's,
Tripura, Agartala.**

Sub:- Submission relevant record/evidence in connection with S/C status.

Ref :- No.F.2-138(BLN-29)/SCW/GL/05/6918-19 dt. 18/7/2005.

Sir,

With reference to the subject captioned above, I beg to enclose herewith the relevant records/evidences in support of my Schedule Caste status as asked for.

Further, it is worth to note that the requisite documents were also submitted in original to your honour through the Inspector of Schools, Belonia vide his letter No.F.1(12-SM)/IS-BLN/99/8047 dated 3rd Feb., 99 and hence I could not produce the said evidences in original to your end at this stage. Now, I am also enclosing herewith a photo copy of Order passed by the Hon'ble Judge, Mr. S. Barman Roy in the Court of Gauhati High Court, Agartala Bench dated 1.02.94 in the matter of my caste status for favour of your kind ready reference please.

In view of the facts as stated. I have no other alternative but to request your honour kindly to go through the matter and consider my Caste Status as recorded in the evidences enclosed and thus oblige.

**Dated, Belonia,
The 18th August, 05.**

Yours faithfully,

Enclo:- As stated.

**Sd/
Santosh Majumder,
H/M
Dashmani Para S.B. School,
Belonia, Tripura (S)."**

[5] In this case the petitioner has stated that he had again submitted his Scheduled Caste certificate and in the last portion of the application has prayed that his castes status be recorded as per the evidence enclosed by him which included the Scheduled Caste certificate issued in his favour. There is no mention that his Scheduled Caste status has been cancelled and he still claims to be a member of the Scheduled Caste. Therefore, in this case hearing was necessary. It would be pointed to mention that the original writ petitioner has expired

and now the case is being prosecuted by his widow and family members.

[6] It is urged by Mr. T.D. Majumder, learned G.A. appearing for the State-respondents that the original writ petitioner in this case, is the real brother of the appellant, namely, Nepal Majumder in W.A. No.73 of 2014. We are making it clear that we are not deciding this case on merits and are not deciding the issue whether the deceased-appellant belongs to Scheduled Caste or not. We are deciding this case in favour of the petitioner only because the State Level Scrutiny Committee has not complied with the directions of the High Court in the earlier case and no hearing was given. In the present case, hearing was required to be given because the original writ petitioner had not accepted that his caste certificate had been rightly cancelled and he again prayed that his caste be decided as per the documents submitted by him.

[7] Unfortunately, the original writ petitioner has died and we cannot now send the matter back to the State Level Scrutiny Committee to decide the same in his absence. Therefore, as far as this appeal is concerned, we find that the failure of the Scrutiny Committee to give hearing to the petitioner makes the order absolutely illegal and against the principles of natural justice. The order is accordingly set aside. Since the original writ petitioner has died, we do not feel that this is a fit case where we should remand the matter to the State Level Scrutiny Committee. The writ appeal is allowed and

the impugned judgment of the learned Single Judge in W.P.(C) No.312 of 2006 is set aside and the order dated 31.05.2006 of the State Level Scrutiny Committee is quashed and the legal heirs shall be entitled to all financial benefits.

We again reiterate that we have not decided the issue whether the deceased appellant belonged to a Scheduled Caste or not.

With this observation and direction, this writ appeal is disposed of.

JUDGE

CHIEF JUSTICE