

IN THE HIGH COURT OF TRIPURA
AGARTALA

W.A No 73 of 2014

Sri Nepal Majumder,

S/o Late Mohan Bashi Majumder,
resident of Champaknagar (Now
Shaltilla, P.O. & P.S.- Belonia,
South Tripura.

Presently posted as
Superintendent of Fisheries,
Belonia as Lower Division Clerk
(L.D.C.)

..... **Appellant**

- V e r s u s -

1. The State of Tripura,

represented by its Secretary
Cum-Commissioner to the
Department of Fisheries,
Government of Tripura, P.O.
Kunjaban, P.S. New Capital
Complex, District – West Tripura.

2. 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.

3. The Director of Fisheries,

Government of Tripura, Pandit
Nehru Complex, Gurkhabasti
Agartala, District – West Tripura.

4. The Chairman, Commissioner and Secretary

(Schedule Castes and OBCs Welfare),
Agartala, West Tripura.

5. The Director of School Education,

Government of Tripura, Agartala,
District – West Tripura.

6. The Member Secretary,

(Director, Schedule Castes and
OBC Welfare), Agartala, District –
West Tripura.

7. The Member,

(Joint Director, Schedule Castes and OBC Welfare), Agartala, District – West Tripura.

8. The Member Secretary,

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

9. 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 delivery of judgment and order : **10.02.2015**

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.309 of 2006 by a learned Single Judge of this Court whereby the writ petition filed by the writ petitioner, the appellant herein namely, Nepal 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 petitioner got employment in the Department of Fisheries 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. The petitioner filed W.P.(C) No.106 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 Castes Welfare Department to examine such matters.

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

The writ petition stands disposed."

[4] Thereafter, in compliance to the judgment of the Court, copy of the 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,
Government of Tripura,
Welfare of Sch. Castes & OBCs,
Tripura, Agartala**

Sub : Reply of show cause notice.

**Ref: No.2-138(BLN-27)/SCW/GL/05/7052
dt. 21.07.05**

Sir,

In reference to the above, I would like to inform that, my original S.C. certificate already been submit to the Deptt. of Fisheries, Govt. of Tripura vide order No.F.2-844(P)/Fish/87-88 dt. 04.01.1995. After that, the Director of Fisheries, Govt. of Tripura, Govt. of Tripura has been published final seniority list for the year 1999 and treated General category instated S.C. category.

In this context I also inform that the Sub-Divisional Officer, Belonia also cancelled my S.C. certificate and no any documents available in my hand.

So, I therefore pray and hope that you would be kindly enough to consider my case and thus oblige thereby.

**Dated, Belonia, the
01.08.2005**

Yours faithfully

**(Nepal Majumder)
S/O. Lt. Mohanbasi Majumder
Vill – Champaknagar New Shaltilla,
Belonia, P.O. Belonia,
P.S. Belonia"**

[5] A perusal of this reply shows that the petitioner did not at all challenge the inquiry report which had admittedly been supplied to him. There is not a word in this reply that the report is a wrong one. The petitioner only states that in the Directorate of Fisheries in the final seniority list published, the petitioner has not been treated as a scheduled caste candidate but as a general category candidate. He has also stated that his Scheduled Caste certificate has been cancelled by the Sub-Divisional Magistrate, Belonia. There is not a whisper in the reply that he is challenging the veracity of the inquiry report or that

he is aggrieved by the order of the Sub-Divisional Magistrate, Belonia. The question that arises is, whether after such a reply any hearing was required to be given to the petitioner.

[6] Mr. A. Bhowmik, learned counsel appearing for the petitioner, has forcefully submitted that hearing in terms of the order of the Gauhati High Court in W.P.(C) No.106 of 1994 has not been given.

[7] A hearing is required to be given only when some person disputes an allegation made against him because hearing is required to settle a dispute. If no dispute is raised, then no hearing is called for. In the facts of the present case, we find that in view of the reply filed, the petitioner was not entitled to any special hearing. Therefore, we do not find any infirmity in the judgment of the learned single Judge and accordingly, the writ appeal is dismissed.

Though the writ appeal has been disposed of, liberty is given to the petitioner to challenge the order dated 12th January, 2015 terminating him from service on other grounds available to him.

JUDGE

CHIEF JUSTICE