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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4947/2017**

PRADYUNN HORA & ANR

..... Petitioners

Through Mr Pranjali Kishore, Advocate.

versus

THE DEPARTMENT OF REVENUE, GOVT.
OF NCT, DELHI

..... Respondent

Through Mr Anuj Aggarwal, ASC with
Mr Kanishk Rana and Mr Ravi Sehgal, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **05.07.2018**

1. The petitioners are minors and have filed the present petition through their mother, Wing Commander Romy Chowdhury. It is stated that on 05.10.2016, the petitioners had submitted their respective applications for Scheduled Caste Certificate. They are aggrieved as the said applications have not been processed. The petitioners further claim that they had filed an application under the Right to Information Act, 2005 seeking the status of their applications but have received no response to this application as well.
2. Mr Aggarwal, the learned counsel appearing for the respondent submits that the applications for Scheduled Caste certificates are required to be made online and, therefore, the respondent is not in a position to process the applications filed by the petitioners.
3. It is also apparent that apart from the petitioners not filing their applications in the manner as prescribed, there is yet another

controversy/issue that is required to be considered by the respondent. Admittedly, the petitioners' father is from a forward caste and does not belong to a Scheduled Caste. However, the petitioners state that their parents are divorced and they have adopted their mother's caste. It is stated that the divorce proceedings between their parents were initiated in the year 2005 and the divorce was granted in the year 2009. They claim that they have been living with their mother throughout the divorce proceedings and thereafter; and, therefore, are entitled to be treated as belonging to the caste of their mother. It is claimed that since she belongs to a Scheduled Caste in the State of Assam, the petitioners also belong to the said caste.

4. The learned counsel appearing for the petitioners relied upon the decision of the Supreme Court in ***Rameshbhai Dabhai Naika v. State of Gujarat and Others : (2012) 3 SCC 400*** and drew the attention of this Court to the following passage from the said judgement:-

“55. In an inter-caste marriage or a marriage between a tribal and a non-tribal there may be a presumption that the child has the caste of the father. This presumption may be stronger in the case where in the inter-caste marriage or a marriage between a tribal and a non-tribal the husband belongs to a forward caste. But by no means the presumption is conclusive or irrebuttable and it is open to the child of such marriage to lead evidence to show that he/she was brought up by the mother who belonged to the Scheduled Caste/Scheduled Tribe. By virtue of being the son of a forward caste father he did not have any advantageous start in life but on the contrary suffered the deprivations, indignities, humiliations and handicaps like any other member of the community to which his/her mother belonged. Additionally, that he was always treated as a member of the community to which her mother belonged not only by that community but by the people outside the community as well.”

The petitioners claim that even though their father belongs to a forward caste, they have not derived any advantage from the same.

5. It is difficult to appreciate as to how the petitioners belong to a Scheduled Caste, especially when they continue to carry the surname of their father. Further, both the parents of the petitioners are serving officers of the Indian Air Force and the petitioners have received the education in prestigious schools.

6. It was contended on behalf of the petitioners that they had lived in Assam between 2001 to 2010, where they had stayed and interacted with other members of their community. However, the petition is bereft of any particulars as to how they had suffered any deprivation, indignities or humiliation suffered by Scheduled Castes in that state. The learned counsel appearing for the petitioners submits that he would provide the necessary particulars to establish that the case of the petitioners falls within exception as carved out by the Supreme Court in the case of **Rameshbhai Dabhai Naika** (*supra*).

7. This Court does not consider it apposite to consider the same at this stage. In the first instance, it would be necessary for the respondent to consider the above and take a view. The petitioners would be at liberty to file an application for a Scheduled Caste Certificate in the manner as prescribed (online). The petitioners may also furnish such other material as they consider necessary to establish that they are entitled to the Scheduled Castes Certificate.

8. Needless to state that if any such application is filed in the manner as prescribed, the respondent shall consider the same in accordance with law.

9. The petition is disposed of with the aforesaid observations.

VIBHU BAKHRU, J

JULY 05, 2018

pkv