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23.08.2022
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 4012 of 2022

**Suman Sen.
-versus
The State of West Bengal & Ors.**

**Mr. Samim Ahammed,
Ms. Ambiya Khatun,
Ms. Gulsanwara Pervin.
...For the Petitioner.**

**Mr. Raja Saha,
Ms. Tanusri Chanda.
...For the State.**

**Mr. Prasun Dutta,
Mr. Shantanu Deb Roy,
Mr. Ananda Gopal Mukherjee.
...For the Respondent No.8.**

The petitioner is aggrieved by the manner in which the caste certificate has been issued in favour of the respondent No. 8 Rusha Majumder @ Rusha Mukherjee.

According to the petitioner, the aforesaid respondent No. 8 is not a member of the scheduled caste. The scheduled caste certificate has been issued in her favour by the Sub-Divisional Officer without following the guidelines mentioned in the Memorandum No.1203-BCW/MR-88/2014 dated 27th July, 2015.

The aforesaid Rusha Majumder @ Rusha Mukherjee has contested the election of the Basirhat Municipality and was declared elected.

The seat in which the respondent No. 8 emerged successful in the election is reserved for scheduled caste candidate.

A similar writ petition was filed against the selfsame Rusha Majumder @ Rusha Mukherjee challenging her status as a scheduled caste candidate.

The Court took into consideration the report filed by the Sub-Divisional Officer, Basirhat and dismissed the writ petition.

Though there is a specific bar under Section 75 of the West Bengal Municipal Election Act, 1994 regarding challenging the validity of any election of a member before this Court but it is the specific stand of the petitioner that the present writ petition is restricted only to the issuance of the scheduled caste certificate in favour of the respondent No.8.

The petitioner, for the time being, does not challenge the election of the said candidate.

Though it is the submission of the petitioner that the guidelines as prescribed in the memorandum dated 27th July, 2015 has not been taken into consideration at the time of issuance of the caste certificate, but it appears from the order dated 16th August, 2022 that the aforesaid Rusha Majumder @ Rusha Mukherjee has never claimed herself to be a member of the Brahmin caste even though her surname is Mukherjee.

It is the specific stand of the aforesaid Rusha Majumder @ Rusha Mukherjee, that Mukherjee is an ornamental surname and all along the aforesaid Rusha Majumder and her family members including her blood relations consider themselves to be the followers of the Namasudra sub-caste and performs the rituals of the said sub-caste.

As the Court has already observed in the earlier writ petition being WPA 5383 of 2022 that there was no error on the part of the Sub-Divisional Officer in issuing the caste certificate in favour of Rusha Majumder @ Rusha Mukherjee, the same issue cannot be permitted to be reopened at the instance of another person.

In view of the above, the prayer of the petitioner cannot be accepted.

The writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)