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16.08.2022
d.p.

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

W.P.A. 5383 of 2022

**Baby Das & Anr.
-versus
The State of West Bengal & Ors.**

**Mr. Narayan Chandra Mondal,
Ms. Anushika Bharati.
...For the Petitioners.**

**Ms. Sutapa Sanyal,
Ms. Susnita Saha.
...For the State.**

**Mr. P.K. Datta,
Mr. Aslam Khan,
Mr. Santanu Deb Roy.
...For the Respondent No.8.**

Affidavit-of-service filed in Court today is taken on record.

The petitioners question the genuinity of the caste/tribe certificate issued in favour of the respondent No.8 Rusha Majumder @ Rusha Mukherjee.

It has been submitted that Rusha Majumder is a Brahmin because of her surname Mukherjee. She can never be a member of the scheduled caste community.

A representation was made before the Sub-Divisional Officer, Basirhat, North 24-Parganas on 10th February, 2022 praying for cancellation/revocation of

the said caste certificate which was obtained by forwarding false information and misrepresentation.

The Sub-Divisional Officer, Basirhat, North 24-Parganas has forwarded instruction to the learned advocate representing the State respondents wherefrom it appears that an enquiry and hearing was conducted in connection with the complaint lodged against the aforesaid respondent by the Deputy Magistrate and Deputy Collector, Basirhat North 24 Parganas.

It appears therefrom that the name of the father of the respondent No.8 is Tapan Adhikary and by caste he is a Namasudra and follower of the Harichand-Gruruchand Thakur of the Matua Community and all other rituals which the father of the respondent no. 8 follows, indicate that they belong to the Namasudra community.

The aforesaid Tapan Adhikary, the father of the respondent No.8 migrated from Bangladesh before 1950. The original surname of his father i.e. the grandfather of the respondent no. 8 was Adhikary. Since 12th April, 1993 the family members of the respondent No.8 have been using Mukherjee surname instead of Adhikary.

On 12th April, 1993, the mother of the respondent No.8 Smt. Manorama Adhikary published a notification/declaration in the local Newspaper "Basirhat Hitaishi" stating that since 12th April, 1993 she and her two sons, Tapan Adhikary and Swapan Adhikary and her daughters-in-law and two daughters Esha and Rusha would adopt the surname Mukherjee instead of Adhikary.

The mother of the respondent No.8 Manorama Adhikary executed an affidavit before the Notary Public that all the members of her family including her sons, daughters and daughters-in-law would change their surname from Adhikary to Mukherjee. That is the reason why the surname of the respondent No.8 is enrolled in the voter's list with surname Mukherjee.

The father of the respondent No.8 mentions that their surname Mukherjee is an ornamental surname and nothing else. By birth and the rituals followed by the family of the respondent no. 8 indicate that they belong to the sub-caste Namasudra. The family never claims to be members of Brahmin community, rather they declared that they are Namasudra and will continue remaining Namasudra through the next generation.

The family members of the respondent No. 8 were also present at the time of hearing. The relatives of the aforesaid respondent No.8 i.e. the uncles of the respondent No.8 and the nephew of the respondent No.8 also claimed that they belonged to the sub-caste Namasudra.

All the aforesaid members belonged to the same family and they are blood related.

Two referees were also present at the time of hearing and both of them claimed to be members of the Namasudra category.

The Deputy Magistrate and Deputy Collector, Basirhat, North 24-Parganas has opined that on the basis of the statements taken from different witnesses, it was recommended that the scheduled caste

certificate issued in favour of the respondent No.8 was rightly issued and the certificate was genuine as per the laws and rules.

The Deputy Magistrate and Deputy Collector, Basirhat North 24-Parganas opined that by adopting the surname Mukherjee, a Namasudra can never become a Brahmin. The caste is achieved only by birth and can never be adopted.

The aforesaid report was placed before the Municipal Returning Officer and the Sub-Divisional Officer, Basirhat and the said authority was of the opinion that the caste certificate issued in favour of the respondent No.8 is a genuine one and was issued from the office of the Sub-Divisional Officer, Basirhat.

In view of the enquiry report that has been placed before this Court, it appears that there is no illegality on the part of the Sub-Divisional Officer in issuing the caste certificate in favour of the respondent No.8.

The prayer of the petitioner for setting aside and/or canceling the caste certificate cannot be accepted by the Court.

The writ petition fails and is hereby dismissed.

The report by the Sub-Divisional Officer, Basirhat, North 24-Parganas dated 10th August, 2022 be retained with the records.

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

(Amrita Sinha, J.)