

01.07.2022
Ct. 5
D/L 12
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WPA 8246 of 2022

Naspa Mahato

-Vs-

The State of West Bengal & Ors.

Mr. Bikash Ranjan Bhattacharyya,
Mr. Prahlad Chandra Ghosh,
Mr. Subir Hazra

... for the petitioner

Mr. Sk. Md. Galib,
Ms. Subhra Nag,

... for the State

The petitioner has challenged a notice of Hearing dated 22nd April, 2022 by which the petitioner has been directed to appear before the Sub-Divisional Officer, Gangarampur at Buniadpur for a hearing in the matter of the statements made in the impugned Notice. The Notice states that a complaint has been lodged by the Secretary, Sonarpur Dhalua Tribals Welfare Society to the effect that the petitioner is pursuing her Ph. D Course (Mathematics) in Gour Banga University, Malda in the reserved quota for Scheduled Tribe under the false certificate and documents.

The petitioner relies on a caste/tribe certificate of 25th September, 2017 issued by the Sub-Divisional Officer, Lalbagh, Murshidabad.

Learned counsel appearing for the petitioner submits that the Sub-Divisional Officer, Gangarampur at Buniadpur, which is at Dakshin Dinajpur, who had issued the impugned Notice, does not have jurisdiction to issue such notice under The West Bengal Scheduled Castes and Scheduled Tribes (Identification) Act, 1994.

The State is represented.

Upon considering the Section 5 read with Section 9 of The West Bengal Scheduled Castes and Scheduled Tribes (Identification) Act, 1994, it appears that the certificate under Sections 3 or 4 may be issued by the Sub-Divisional Officer of the Sub-Division concerned in the district [Section 5(a)] and such Sub-Divisional Officer has been referred to as the certificate issuing authority under Section 7 of the said Act. Section 9 of the said Act empowers the certificate issuing authority to cancel, impound or revoke the certificate, if such authority is satisfied that the certificate has been obtained by any person by furnishing any false information or by suppressing any material information. Rule 3 of the West Bengal Scheduled Casts and Scheduled Tribes (Identification) Rules, 1994, lays down the procedure for cancellation of certificate but gives such power to a certificate issuing authority to act upon complaints receipt by such authority.

If all the Sections of the Act and the Rules are read together, it would be evident that the certificate

issuing authority is the Sub-Divisional Officer of the Sub-Division in the concerned district. In the present case, the certificate issuing authority is the Sub-Divisional Officer, Lalbagh, Murshidabad and hence this authority is the certificate issuing authority under Section 9 and Rule 3, as stated above. Hence any steps in aid of cancelling or revoking the certificate issued by the State authority can only be taken by the Sub-Divisional Officer, Lalbagh, Murshidabad.

In view of the above, the impugned Notice dated 22nd April, 2022 issued by the Sub-Divisional Officer, Gangarumpur at Buniadpur (Dakshin Dinajpur) is without jurisdiction and the respondents are hence restrained from taking any further act or proceeding in terms of such Notice.

WPA 8246 of 2022 is disposed of in terms of the above.

(Moushumi Bhattacharya, J.)