

December 12, 2022
AD 35
Court No.1
SG

WPA(P) 521 of 2022

Somnath Dutta
vs.
The State of West Bengal and others

Mr. Prantick Ghosh,
Mr. Siddhartha Sarkar,
Mr. Prasad Bhattacharyya, Advocates
... for the petitioner

Mr. Ranajit Chatterjee,
Mr. Aniruddha Mitra, Advocates
... for the High Court administration

Ms. Sayanti Sengupta,
Mr. Jamiruddin Khan, Advocates
... for the respondent No.7

In this public interest petition, the petitioner has questioned the appointment of respondent No.7 on the ground that respondent No.7 was issued the OBC certificate and she has obtained the appointment on the basis of false scheduled caste certificate. On this plea, the writ of quo warranto has been prayed for.

Learned counsel for respondent No.2 has raised a preliminary objection about the maintainability of the petition by submitting that a PIL in service matter cannot be entertained.

Learned counsel for respondent No.7 has also questioned the bona fides of the petition by submitting that the petitioner is the uncle of respondent No.7 and he has filed the petition as a counterblast to the ongoing dispute between the parties.

We have heard learned counsel for the parties and perused on record. Since a writ of quo warranto has been

prayed for in the petition, the writ petition cannot be dismissed as not maintainable.

It is undisputed before this Court that the petitioner is closely related to respondent No.7 being her uncle but this fact has been suppressed in the public interest petition. Affidavit-in-opposition filed by respondent No. 7 also reveals that the said respondent and her family members had filed application under Section 144(2) of Cr.P.C. being MP Case No.1126/22 as petitioner and his wife had intended to evict the respondent and her family members. It is also disclosed in the affidavit-in-opposition that on 04.07.2022 the wife of the petitioner had issued a legal notice to the private respondent and family members through her advocate to quit and vacate the residential premises. This notice has been placed on record along with affidavit-in-opposition. Affidavit-in-opposition also discloses that the electricity connection in the house of respondent No.7 was disconnected at the instance of the wife of the petitioner. It is also disclosed that the father of respondent No.7 had also filed an application before the Sub-Divisional Executive Magistrate, North 24 Parganas being MP Case No.2447/22 seeking maintenance of peace and tranquility and restoration of electricity connection. Though affidavit-in-reply in response to the affidavit-in-opposition has been filed by the petitioner but none of these facts have been disputed therein. On the contrary, a plea has been raised by the petitioner that the

relationship between the petitioner and the respondent No.7 does not come in the way of the present petition. The facts disclosed above clearly indicate that the present public interest petition has been filed with oblique motive and it cannot be treated as a bona fide petition. That apart, there is clear suppression of fact relating to the relationship between the petitioner and respondent No.7 in the present public interest petition.

It has also been pointed out that the OBC certificate earlier issued to respondent No.7 was subsequently directed to be cancelled because after local inquiry it was found that the said certificate was inadvertently issued.

Learned counsel for respondent No.7 has informed that the OBC certificate was cancelled.

Under the aforesaid circumstances, we are of the opinion that this PIL filed for settling the private score is liable to be dismissed with costs. Hence, we dismiss the present petition with costs ₹10,000/- which will be deposited by the petitioner with the Secretary, West Bengal Legal Services Authority within 2 weeks from today.

We make it clear that this order will not be treated as an order adjudication of issuance of legality and validity of caste certificate of respondent No.7.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]