

Ct. 05
Item No.14
02.12.2022
(Suvendu)

WPA 26675 of 2022

**Chapa Mandal
Vs.
The State of West Bengal & Ors.**

Mr. Bikash Ranjan Bhattacharya
Mr. Prahlad Chandra Ghosh
Mr. Subir Hazra
.....for the petitioner

Mr. Tapan Kumar Mukherjee, Ld. AGP,
Ms. D. Dutta
.....for the State

The affidavit of service is taken on record.

The petitioner is aggrieved by an order passed by the Sub-Divisional Officer, Malda Sadar on 21st October, 2022 by which the petitioner's Scheduled Tribe Certificate dated 16th March, 2022 was found to have been obtained by furnishing false information and cancelled on that basis. The impugned order was passed pursuant to a direction of this Court dated 22nd September, 2022 in an earlier writ petition filed by the petitioner by which the SDO was directed to determine the caste status of the petitioner in accordance with the relevant Rules of 1995, a Memorandum dated

27th July, 2015 and the decision of the Supreme Court in *Kumari Madhuri Patil & Anr. Vs. Addl. Commissioner, Tribal Development & Ors., (1994) 6 SCC 241*.

The learned Additional Government Pleader appearing for the State relies on Clause 7F of a Notification dated 14th October, 1996 issued by the Scheduled Castes and Tribes Welfare Department of the State and submits that the petitioner has an alternative remedy of filing an appeal against the order of the SDO.

After hearing learned counsel, it appears that there has been statutory amendment to the West Bengal Scheduled Castes and Scheduled Tribes (Identification) Act, 1994 in the form of Section 8A which brought into the Act with effect from 10th May, 2007. Under Section 8A(1), the State Government may by an order constitute a Committee to be called the State Scrutiny Committee for verification of social status of a person in whose favour a Certificate is issued. The constitution of the Committee has been given under the Section 8A(2) and is to be a 3-Member Committee. Under Section 8A(3), the Committee is empowered to verify the social status of the person concerned and to issue direction to Vigilance Cell constituted under Section 8B and to make inquiry

and call for information in relation to contravention of any provision of the 1994 Act. The other powers of the Committee are enumerated under the said sub-section.

Since the impugned order reflects that the SDO came to a conclusion prima facie that the Certificate was obtained by furnishing false information, the SDO was not empowered to take a unilateral decision in contravention of Sections 8A(1) –(3) of the 1994 Act. The Supreme Court decision in *Kumari Madhuri Patil, (1994) 6 SCC 241* also sets out a procedure for cancellation of a Caste Certificate. It is evident that such procedure was not followed in the present case.

WPA 26675 of 2022 is accordingly disposed of by quashing the impugned order of the SDO dated 21st October, 2022.

The respondent no. 1, being the Principal Secretary Backward Class Welfare and Tribal Development Department is, therefore, directed to take the steps as provided under Section 8A of the 1994 Act for verifying the information furnished by the petitioner and as to whether the Certificate was obtained by misrepresentation as found by the SDO. The exercise as directed should be completed within eight weeks from today but not later than 10th February, 2023. A copy of the

decision shall be made available to the petitioner within a week from the date on which such decision is made by the concerned Authorities.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Moushumi Bhattacharya, J.)