

WPA 1546 of 2017

06.09.23
SI-07
Ct.11
(S.R.)

Paschimbanga Dalit Dhanuk Samaj Kalyan Samiti
v.
Union of India & Ors.

Mr. Pradyamna Sinha
Mr. Sannidhya Datta ... for the petitioner.

Ms. Susmita Saha Dutta
... for the respondent nos.1 to 4.

Affidavit-in-opposition filed on behalf of the
respondent nos.1 to 4 is taken on record.

The present writ petition was preferred praying for a
direction upon the concerned respondents to include the
Dhanuk Community residing in the State of West Bengal
in the Constitution (Scheduled Castes) Order, 1950 in
relation to the State of West Bengal.

Mr. Sinha, learned advocate appearing for the
petitioner contends that in other States like in Haryana,
Himachal Pradesh, Gujrat and Rajasthan, the Dhanuk
Community has been included in the Constitution
(Scheduled Castes) Order, 1950 but in West Bengal such
Community had not been included in the Order.

Mr. Sinha arduously contends that the Dhanuk
Community belongs to Scheduled Caste Community and
hence, they should be included in the Constitution
(Scheduled Castes) Order, 1950 as Scheduled Castes in
relation to the State of West Bengal also.

Ms. Saha Dutta, learned advocate appearing for the respondent nos.1 to 4 submits that no community can be included in the Constitution (Scheduled Castes) Order, 1950 unless any recommendation is made for such inclusion by the concerned State Government. She submits that the State of West Bengal has not made any such recommendation and hence, the Dhanuk Community has not been included in the Order of 1950.

Despite service, no one appears on behalf of the State.

Heard the learned advocates. Perused the materials on record.

Admittedly, in exercise of the powers conferred by clause (1) of Article 341 of the Constitution of India, His Excellency the Hon'ble President in consultation with the Hon'ble Governors of the States concerned was pleased to make the order being the Constitution (Scheduled Castes) Order, 1950. The Dhanuk Community has been recognized as Scheduled caste community in relation of the States of Haryana, Himachal Pradesh, Madhya Pradesh, Orissa and Rajasthan and accordingly, such community has been incorporated in the Constitution (Scheduled Castes) Order, 1950 in relation to that States.

The people belonging to the Dhanuk Community live

in the different districts in the State of West Bengal. In the writ petition, it was claimed that on the basis of a representation made by some persons belonging to the Dhanuk Community, the West Bengal Commission for Backward Classes made recommendation for enlistment of the Dhanuk Community as Other Backward Classes in relation of the State of West Bengal.

In view of such sequence of facts, the writ petition is disposed of by directing the writ petitioner to make a comprehensive representation to the respondent no.6 ventilating all its grievances in the said representation within three weeks from the date. If such representation is filed within the time stipulated, the respondent no.6 shall consider such representation after affording an opportunity of hearing to the person who would be nominated by the petitioner. The nominee of the petitioner shall be at liberty to produce all sorts of documents, circulars and/or notifications in support of the claim of the petitioner.

The respondent no. 6 shall dispose of the representation within a period of eight weeks from the date of receipt of such representation.

It is clarified that if such representation is decided in favour of the petitioner, the respondent no.6 shall make necessary recommendation for inclusion of the Dhanuk Community in the Constitution (Scheduled Castes) Order,

1950 and if the representation is decided against the petitioner, the respondent no.6 shall pass a reasoned order and such reasoned order must be communicated to the petitioner within two weeks from the date of taking of such decision.

With such observation and order, the writ petition is disposed of.

There shall, however, be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Partha Sarathi Chatterjee, J.)