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03.08.2023
D.Hira
Court No. 12

**In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side**

**MAT 261 of 2020
With
CAN 1 of 2020 (Old No. CAN 1549 of 2020)**

**Anukul Dinda
Versus
The State of West Bengal & Ors.**

**Mr. Gouranga Kumar Das,
Ms. Swati Mandal.
... for the appellant**

The respondent nos. 8 & 9/writ petitioners filed the writ petition being W.P. no. 24655 (W) of 2018 challenging the order of Sub-Divisional Officer, Kakdwip dated 26th November, 2018 cancelling the schedule tribes certificate issued.

According to the respondent nos. 8 & 9 as per the judgment of Hon'ble Apex Court in ***Kumari Madhuri Patil's*** case, the issue with regard to scheduled castes and scheduled tribes community has to be considered only by the State Level Scrutiny Committee, which is competent to decide the genuineness of scheduled castes and scheduled tribes certificate already issued and is also competent to confirm, modify or cancel the said certificate.

The appellant herein as private respondent in the writ petition supported the order of Sub-

Divisional Officer before the learned Single Judge and contended that only after thorough enquiry and based on the report of the Director of Cultural Research Institute, Backward Class Welfare Department, Government of West Bengal, the Sub-Divisional Officer cancelled the certificate.

Mr. Das, learned counsel appearing for the appellant further submitted that the respondent nos. 8 & 9 themselves have sought for issuance of scheduled castes community certificate and, therefore, order of the Sub-Divisional Officer cancelling scheduled tribes certificate is valid and prayed for dismissal of the writ petition.

The learned counsel appearing for the State submitted that the Sub-Divisional Officer ought to have been made reference to the State Level Scrutiny Committee under Section 8A of the West Bengal Schedule Castes and Schedule Tribes (Identification) Act, 1994 and cancellation of the certificate directly by the Sub-Divisional Officer is illegal.

Learned Judge considering the judgment of Hon'ble Apex Court in Kumari Madhuri Patil's case and elaborately considering the provisions and rules which contemplates the comprehensive proceedings to be followed by the State Level Scrutiny Committee set aside the order of the Sub-Divisional Officer.

Learned Judge has made clear that the order of the learned Judge in the writ petition will not deter the Sub-Divisional Officer from rehearing the complaint made by the appellant upon reference to the State Level Scrutiny Committee in accordance with law.

Learned Judge also issued direction to the State Level Scrutiny Committee that if such reference is made by the Sub-Divisional Officer, to look into the matter in accordance with law and with regard to the social status of the respondent nos. 8 & 9 and take necessary steps.

Against the said order the private respondents in the writ petition has come out with the present appeal.

Mr. Das, learned counsel appearing for the appellant reiterated the averments made in the grounds of appeal and also extensively referred to the documents filed along with the stay petition and submitted that the Sub-Divisional Officer cancelled the certificate of the respondent nos. 8 & 9 only after due enquiry.

Mr. Das, learned counsel for the appellant made elaborate submissions that respondent nos. 8 & 9 belong to scheduled castes community and prayed for setting aside the order of the learned Judge and allowing the appeal.

There is no representation for the private respondent as well as State.

Heard Mr. Gouranga Kumar Das, learned counsel appearing for the appellant and perused the materials on record.

From the materials on record it is seen that scheduled castes community certificate was issued to the respondent nos. 8 & 9 was cancelled by the Sub-Divisional Officer.

It is now well settled that the State Level Scrutiny Committee is the authority to cancel the community certificate. Elaborate procedure has been contemplated while deciding the genuineness of community certificate issued. The committee has power to cancel the certificate after following the procedure.

In the present case, based on the complaint given by the appellant, the Sub-Divisional Officer relying on the report of Director of Cultural Research Institute, Backward Class Welfare Department, Government of West Bengal, cancelled the community certificate issued to the respondent nos. 8 & 9. The Sub-Divisional Officer has no power to cancel the community certificate issued.

In view of the settled judicial pronouncements the learned Judge has rightly set aside the order of Sub-Divisional Officer and given liberty to the Sub-Divisional Officer to rehear the complaint made by the appellant and made a

reference to the State Level Scrutiny Committee in accordance with law.

Learned Judge also has issued a direction to the State Level Scrutiny Committee to look into the matter in accordance with law and with regard to the social status of the respondent nos. 8 & 9.

In view of such findings, there is no error in the order of the learned Judge warranting interference by this Court.

The appeal fails and dismissed.

All pending applications, if any, are consequently dismissed.

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

(V.M. Velumani, J.)

(Rai Chattopadhyay, J.)