

21.03.2023
Ct. 5
D/L 7
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WPA 5879 of 2023

Ayan Mahato

-Vs-

The State of West Bengal & Ors.

Mr. Kishore Datta,
Mr. Prahlad Chandra Ghosh,
Mr. Subir Hazra

... for the petitioner

Mr. Amal Kr. Sen,
Mr. Lal Mohan Basu

... for the State

The petitioner is aggrieved by an order dated 3rd March, 2023 of the Sub-Divisional Officer, Lalbagh, Murshidabad, cancelling the Caste Certificate issued in favour of the petitioner and directing the petitioner to return the original Caste Certificate dated 24th June, 2016. The reason given for cancellation is submission of forged documents.

Learned counsel appearing for the State hands up an order passed by a coordinate Bench dated 15th December, 2022 in a bunch of writ petitions (*Hemabati Mandi Vs. The State of West Bengal & Ors.*), whereby the veracity of the Caste Certificates of 55 candidates identified from the list of candidates called for personality test was to be scrutinized by the Backward Classes Welfare Department. Counsel submits that the impugned order was passed pursuant to the direction of the coordinate Bench.

The impugned order clearly mentions the proceedings and the order passed by the coordinate Bench. In any event, the Notification of 8th September,

2011 of the Backward Classes Welfare Department of the State amends the 1995 Rules to insert Rule 7G which provides for an appeal against any order of cancellation before the District Magistrate-Rule 7G(1)(a) of The West Bengal Scheduled Castes and Scheduled Tribes (Identification) Rules, 1995. Subsequent Notification of 28th November, 2022 further inserted Section 9A to the 1994 Act providing for an appeal against any cancellation to the District Magistrate-Section 9A (1)(a).

The petitioner before this Court is entitled to go before the appellate forum provided in the two notifications specifically Section 9A and Rule 7G. The appellate forum shall consider all points raised by the petitioner in the writ petition filed in this Court. The appeal shall be disposed of within the time limit specified under the 2nd proviso of Section 9A(1) i.e. within three months from the date on which that appeal has been made. The petitioner shall be at liberty of seeking interim protection under Rule 5 of the 1995 Rules before the Appellate Authority.

WPA 5879 of 2023 is disposed of in terms of the above.

(Moushumi Bhattacharya, J.)