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13.12.2023
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 6227 of 2023

With

IA No. C.A.N. 1 of 2023

Sandip Sinha & Anr.

Vs.

The State of West Bengal & Ors.

Mr. Kamalesh Bhattacharya,
Mr. Prahlad Chandra Ghosh,
Mr. Subir Hazra

...for the petitioners

Ms. Amrita Panja Moulick

...for the State

1. The present writ petition has been preferred against a show cause notice issued by the respondent-authorities for cancellation of the Scheduled Caste certificate of the petitioners.

2. During pendency of the writ petition, an order has been passed by the respondent-authorities actually cancelling the Scheduled Caste certificate of the petitioners pursuant to the said show cause notice.

3. Learned counsel for the petitioners argues that no notice of hearing was given to the petitioners at any time prior to the date of the hearing, although notice was subsequently

received by the petitioners, after the hearing was over.

4. Although the initial challenge was preferred against the show cause notice, the petitioners restrict their arguments to the illegality of the order cancelling the Scheduled Caste certificate of the petitioners.

5. Learned counsel for the State submits that although she has instruction that previously several notices of hearing were sent to the petitioners, insofar as the last date of hearing is concerned, there is no document in the possession of the respondents to substantiate that actually a notice of hearing was given to the petitioners prior to the date of cancellation of the Scheduled Caste certificate of the petitioners.

6. In such view of the matter, a cloud is cast on whether any notice was served prior to the final date of hearing on the petitioners. Such flaw on the part of the respondents violates the principle of *Audi Alteram Partem* and vitiates the order cancelling the Scheduled Caste certificate of the petitioners during pendency of the writ petition.

7. In such view of the matter, W.P.A. No. 6227 of 2023 is disposed of by setting aside the

order dated September 22, 2023 whereby the petitioners' Scheduled Caste certificates were cancelled.

8. The respondent-authorities shall, upon giving fresh notice of hearing to the petitioners, conduct a proper hearing in accordance with law and upon such hearing and giving opportunity to the petitioners to furnish documents, if any, shall decide the issue as to whether the petitioners' Scheduled Caste Certificates ought to be cancelled or not, following the procedures of law.

9. C.A.N. 1 of 2023 is also disposed of accordingly.

10. There will be no order as to costs.

11. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)