

05.04.2023
sayandeep
Sl. No. 05
Ct. No. 05

WPA 8205 of 2023

Sangeeta Mehata @ Sangeeta Mahata
-Versus-
The State of West Bengal & Ors.

Mr. Anindya Lahiri
Mr. Samrat Dey Paul

.....for the petitioner

Mr. Sk. Md. Galib
Ms. Subhra Nag

.....for the State

The petitioner has prayed for initiation of a fresh enquiry in respect of the Tribe Certificate of the petitioner following the Notice issued by the Sub-Divisional Officer, Lalbagh, Murshidabad to the petitioner under Rule 3(2) and (3) of the West Bengal Scheduled Castes and Scheduled Tribes (Identification) Rules, 1995. The petitioner is also aggrieved by a Preliminary Enquiry Report in respect of the petitioner's Tribe Certificate (the report mentions Caste Certificate) and seeks a fresh enquiry being unhappy with the findings of the Report.

Learned counsel appearing for the State takes a preliminary objection to the maintainability of the writ petition on the ground that the writ petition is premature. Counsel places the relevant Rules of the West Bengal Scheduled Castes and Scheduled Tribes (Identification) Rules, 1995 as notified on 14th October, 1996. Counsel places Rule 3-procedure for cancellation, impounding or revocation of certificate-in particular.

Upon hearing learned counsel appearing for the petitioner and the respondents, it appears that Rule 3 provides for the procedure for cancellation of a certificate. Under Rule 3(1), a certificate issuing authority, in this case the concerned Sub-Divisional Officer is authorized to act on a complaint by any person or *suo motu* and take appropriate action against a person who is the holder of a Scheduled Caste or Scheduled Tribe Certificate on the ground that the person concerned does not belong to the Scheduled Caste or Scheduled Tribe. The certificate issuing authority is empowered to hold a preliminary enquiry and is under an obligation thereafter to record the reasons as to its satisfaction of the truth or otherwise of the complaints received and start proceedings for cancellation of a certificate if required. Under sub-Rule (2), the certificate issuing authority is further authorized to ask the certificate holder, by way of a written notice, to deposit the certificate in original. Sub-Rule (3) refers to the next stage which is that the certificate issuing authority shall issue a notice to the certificate holder asking to show-cause within a period of 15 days or as the authority may think fit as to why the certificate should not be cancelled, impounded or revoked.

The present writ petition has been filed at the stage of Rule 3(3) of the 1995 Rules where the petitioner

has received a Notice dated 21st March, 2023 to show-cause as to why the petitioner's Tribe Certificate shall not be cancelled. The petitioner has also been asked to deposit the original certificate within 05.04.2023. It is clear from Rule 3(4)(a) that the petitioner will be given an opportunity to give evidence in support of the petitioner's tribe and against findings of the Preliminary Enquiry Report as well as the show-cause Notice. Rule 3(4)(a) provides that the certificate issuing authority shall fix a date of hearing and the certificate holder shall be at liberty to bring oral or documentary evidence against or in support of the caste or tribe identity of the holder of the certificate.

Rule 3(4)(a) makes it clear that the petitioner shall not be deprived of any opportunity of hearing before a final decision is taken by the certificate issuing authority. The contentions of the petitioner brought before the Court at this stage can well be taken at the time of hearing before the certificate issuing authority as provided under the Rules. The objections raised by the petitioner on the findings of the preliminary Report can also be brought or challenged by way of evidence as provided under the said Rule.

It should also be mentioned that the Rules do not provide for a fresh Preliminary Enquiry Report. There is provision only for one Preliminary Enquiry Report under Rule 3(1) of the 1995 Rules.

The above reasons persuade this Court to hold that the writ petition is premature and the petitioner, having already given her reply to the show-cause notice, can invoke the jurisdiction of the Court, as the case may be, only upon a final decision taken by the certificate issuing authority.

WPA 8205 of 2023 is accordingly dismissed without any order as to costs.

(Moushumi Bhattacharya, J.)