

D/L
Item No. 6
03.01.2023
KOLE

**MAT 1423 of 2022
With
IA No. CAN 1 of 2022**

**Suman Sen
-Vs.-
The State of West Bengal & Ors.**

*Mr. Samim Ahmed,
Mr. G. Pervin,*

...for the appellant.

*Mr. Raja Saha,
Mr. T. Chanda,*

...for the State.

*Mr. P. K. Dutta,
Mr. A. Khan,
Mr. S. Deb Roy,
Mr. A. Gopal Mukherjee,*

...for the private respondents.

By consent of the parties the appeal and the application are taken up for hearing together.

A judgment and order dated August 23, 2022, whereby the appellant's writ petition being WPA 4012 of 2022 was dismissed by a learned Single Judge, is under challenge in this appeal.

The appellant/writ petitioner approached the learned Single Judge with the grievance that a caste certificate issued in favour of the respondent no. 8 by the concerned Sub-divisional Officer was so issued without following the guidelines mentioned in the Memorandum No. 1203-BCW/MR-88/2014 dated 27th July, 2015. The caste certificate was to the effect that the respondent no. 8 belongs to a scheduled caste. According to the writ petitioner, the respondent no. 8 is a Bramhin. By procuring the caste certificate, the respondent no. 8 contested the election for

the Basirhat Municipality and was declared elected. The said seat was reserved for Scheduled Caste. The writ petitioner did not challenge the election of the candidate in view of Section 75 of the West Bengal Municipal Election Act, 1994. The writ petitioner challenged the manner in which the caste certificate was issued in favour of the respondent no. 8.

The learned Judge noticed that a previous writ petition had been filed against the respondent no. 8 herein challenging her status as a scheduled caste candidate. The Court took into consideration a report filed by the Sub-divisional Officer, Basirhat and dismissed the writ petition.

Taking into consideration the order passed in the previous writ petition and also the report of the Sub-divisional Officer, which was filed in the earlier writ petition, the learned Judge dismissed the writ petition. The learned Judge noted that in the earlier writ petition the court already observed that there was no error on the part of the Sub-divisional Officer in issuing the caste certificate in favour of the respondent no. 8. The same issue cannot be permitted to be reopened at the instance of another person.

Being aggrieved, the writ petitioner has come up by way of this appeal.

We have heard learned Counsel for the parties. We see absolutely no infirmity in the order under appeal. The issue of scheduled caste status of the respondent no. 8 was decided in the earlier writ petition being WPA 5383 of 2022. Hence, the learned Judge in this case was absolutely right in not reopening the same issue.

This apart, we also have serious doubt about the *locus standi* of the appellant to maintain the present writ petition. This is not a public interest litigation.

In view of the aforesaid, the appeal and the connected application fail and are dismissed.

Learned Advocate for the appellant says that the appellant has a statutory remedy available to him. If the appellant is entitled in law to pursue any other remedy, he will be at liberty to do so.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Apurba Sinha Ray, J.) (Arijit Banerjee, J.)