

D/L. 41.
October 16, 2023.
MNS.

WPA No. 20975 of 2023

Mamoni Khilari @ Mamoni Bagal
Vs.
The State of West Bengal and others

Mr. Sarwar Jahan,
Mr. Asif Mehdi

... for the petitioner.

Mr. Santanu Kumar Mitra,
Ms. Rama Halder

...for the State.

1. Affidavit-of-service filed in Court today be kept on record.
2. Learned counsel for the petitioner contends that the petitioner was issued a Scheduled Caste Certificate.
3. By placing reliance on several similar certificates annexed to the writ petition, it is argued that surname of the petitioner is 'Bagal' and the caste under which the petitioner falls is 'Mahar'. Several such people were issued similar certificates.
4. Learned counsel also places reliance on a communication dated February 16, 2023, when a similar question arose, where the Sub Divisional Officer, Jhargram Sadar, wrote to

the Joint Commissioner for Reservation & Ex-Officio Joint Secretary, BCW Department, asking for a field investigation of this community of Jhargram Sadar Sub Division by CRI personnel, so that it may be clearly ascertained whether these people (certificate holders as well as other members of this community) are actually Mahar by caste or not. The surname Bagal was also included within the ambit of such scrutiny in the said communication.

5. It is argued that before such field enquiry and/or field investigation, a show cause notice was issued directing the petitioner to submit her caste certificate and to participate in the hearing.
6. Learned counsel for the petitioner argues that unless the field investigation is concluded, such show cause notice ought to be set aside.
7. Learned counsel for the respondent authorities submits that several notices of hearing have been given subsequently to the petitioner. It is further argued that a field enquiry has already been done on the basis of two complaints. The petitioner is seeking to avoid hearing.

8. Upon hearing learned counsel for the parties, it transpires that there is a dispute as to whether the field investigation, as pointed out by learned counsel for the petitioner, has actually been conducted by the respondent authorities or not.
9. Be that as it may, all the issues raised by the petitioner in the present writ petition can also be raised by the petitioner before the appropriate authorities in the hearing for which the petitioner has already been notified by the authorities.
10. It would not be appropriate for this Court to usurp the jurisdiction of the said authority conferred by Statute.
11. Accordingly, WPA No. 20975 of 2023 is disposed of by directing the respondent authorities to fix a further date of hearing and give a prior notice thereof to the petitioner for the purpose of ascertaining whether the caste certificate of the petitioner is to be cancelled or not.
12. It is made clear that prior to such hearing being given to the petitioner, the respondent authorities shall furnish copies of all documents, including enquiry report/field

investigation report, if any, etc. to the petitioner to enable the petitioner to properly contest the said proceeding.

13. Upon such copies being furnished and hearing being given, the respondent authorities shall decide on such issue in accordance with law without being prejudiced in any manner by any of the observations made herein.

14. It is expected that such hearing shall be concluded at the earliest, preferably within the month of December, 2023.

15. There will be no order as to costs.

16. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)