

12
08.12.2023
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 27565 of 2023

**Mamoni Khilari @ Mamoni Bagal
-versus
The State of West Bengal & Ors.**

**Mr. Samim Ahammed,
Ms. Saloni Bhattacharya,
Ms. Sangeeta Chakraborty,
Ms. Gulsanwara Pervin.
...For the Petitioner.**

**Mr. Lalit Mohan Mahata,
Mr. Rudranil Dey.
...For the State.**

The petitioner contested the panchayat general election and was declared elected. She was thereafter, elected as the Pradhan of a Gram Panchayat from the reserved category. Caste certificate relied upon by the petitioner was issued in her favour on 28th June, 2018.

A complaint was lodged on 1st August, 2023 raising question and doubting the actual caste identity of the petitioner.

The complaint was enquired by the Joint Block Development Officer and a detailed reasoned order was passed by the Sub-Divisional Officer on 30th October, 2023 by canceling the scheduled caste certificate issued in favour of the petitioner.

Being aggrieved by the order of cancellation of the caste certificate, the petitioner preferred an appeal before the appellate authority which is pending consideration.

On account of cancellation of the caste certificate, the Sub-Divisional Officer has called for a meeting to be held for removal of the petitioner from the post of Pradhan. The said meeting is scheduled today at 12 noon.

It appears from the submissions made on behalf of all the parties and upon perusal of materials on record that, the caste certificate which has been cancelled was issued by the competent authority in favour of the petitioner way back on 28th June, 2018. It is not the allegation that the petitioner has been obtained the caste certificate upon misrepresentation of facts or by practicing fraud.

The Sub-Divisional Officer has given various reasons as to why the petitioner cannot be treated to be a scheduled category candidate. The enquiry was in response to a complaint which was lodged on 1st August, 2023. It appears that the complaint was lodged for some vested reasons. The petitioner enjoyed the benefit of reservation from June 2018 till the date of cancellation of the caste certificate on 31st October, 2023.

Appeal preferred against the order of cancellation is pending consideration before the appellate forum. Appeal, being a continuation of the original proceeding, the Sub-Divisional Officer ought to have waited for the fate of the appeal prior to initiating steps for removal of the petitioner from the post of Pradhan.

In the event the appeal filed by the petitioner is allowed by the appellate forum, then the petitioner has to be reinstated in the post of Pradhan. There may be several legal complications, if the petitioner is removed from the post of Pradhan pending consideration of the appeal before the appellate forum.

One of the grounds mentioned in the appeal preferred by the petitioner is that the Sub-Divisional Officer, Jhargram Sadar vide Memo dated 18th February, 2023 sought for a clarification from the Joint Commissioner of Reservation and Ex-Officio Joint Secretary, Backward Classes Welfare Department as to whether the Mahar caste would fall within the reserved category or not. The clarification is awaiting.

Learned advocate appearing for the State respondents, submits upon instructions, that approximately 2500 candidates may suffer the same fate if the caste which was treated as reserved is subsequently held to be de-reserved by the order of the Joint Commissioner.

For ends of justice, till the issue is finally decided by the Joint Commissioner of Reservation, the Sub-Divisional Officer ought not to single out the petitioner and cancel her caste certificate.

In view of the above, the Sub-Divisional Officer, Jhargram Sadar is directed not to take any consequent steps pursuant to the cancellation of the caste certificate of the petitioner till the issue is finally decided by the Government.

The impugned notice dated 1st December, 2023, accordingly, stands set aside.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)