

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction**

**WPA No. 1798 of 2023
Krishnu Tirkey
Versus
State of West Bengal & Ors.**

Mr. Ajay Singhal
Mr. Abhishek Singh
...for the Petitioner

Mr. Bikramaditya Ghosh
Ms. Bedashruti Bose
...for the State

Heard learned counsels for the parties.

The petitioner claims to belong to Oraon Tribe and submitted an application before the third respondent for issuance of Scheduled Tribe certificate in this regard on 13th August, 2019. The petitioner was neither called for hearing, nor any communication made to him with regard to the fate of his application. The petitioner learnt about rejection of the application from the website of the authority. The ground of such rejection is recorded as “discrepancy in applicant’s name in application and supporting documents.”

Learned counsel for the petitioner submits that no opportunity of hearing was accorded to the petitioner prior to the rejection of the application

and the said order was not communicated to the petitioner by the authority. Learned counsel has placed reliance on the Memorandum issued by the Government of West Bengal, Backward Classes Welfare Department on 27th July, 2015 which demonstrates that the applicant has a right to apply even without any documentary proof in support of his claim and no application shall be rejected merely on the ground of non-availability of documentary evidence about caste identity, residence or citizenship. The petitioner seeks reconsideration of his application and issuance of Scheduled Tribe certificate in his favour. Learned counsel submits that the petitioner was subjected to atrocities, for which he lodged a complaint before the Siliguri Police Station which was registered as Siliguri Police Station case No. 920/2019 dated 5th December, 2019. Since the petitioner is unable to produce the Scheduled Tribe certificate before the investigating officer of the case, the investigating officer is unable to submit charge-sheet therein. Also, an identical application made by the petitioner's daughter has been allowed by the authority who has issued such certificate in her favour.

Upon consideration of the submission made on behalf of the parties, this Court is inclined to hold that since it *prima facie* appears from the documents annexed to the writ petition that the petitioner belongs to Scheduled Tribe and also there is nothing on record to suggest that opportunity of hearing was granted to the petitioner prior to rejection of his application, the concerned authority should be directed to revisit the issue upon granting reasonable opportunity of hearing to the petitioner.

The writ petition is accordingly disposed of directing the third respondent to revisit the issue and consider issuance of Scheduled Tribe certificate in favour of the petitioner upon affording reasonable opportunity of hearing to the petitioner and in the light of the guidelines/memorandum dated 27th July, 2015 within two weeks from the date of communication of this order. The concerned authority shall be at liberty to make necessary local enquiry in order to ascertain the eligibility of the petitioner prior to considering the request of the petitioner.

The decision taken by the authority shall be communicated to the petitioner within a week thereof.

There shall be however, no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J)