

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Partha Sarathi Sen

WPA 1420 of 2013

**Ujjal Roy & Ors.
Vs.
The State of West Bengal & Ors.**

For the petitioners	:	Mr. Sufi Kamal Ms. Shireen Hossain
For the State	:	Mr. Joyanta Samanta Ms. Rajyashree Mukherjee
Heard on	:	31.07.2024
Judgement on	:	31.07.2024

PARTHA SARATHI SEN, J.:

1. In this writ petition, the petitioners have prayed for issuance of writ of mandamus directing the respondent authorities to enlist their names as Scheduled Tribe categories.
2. In support of the instant writ petition, learned advocate for the writ petitioners submits before this Court that in an earlier round of litigation, a co-ordinate Bench while disposing WP No. 6516 (W) of 2008 by its order dated 03.06.2000 directed the respondent no.

3/SDO, Chanchal, Malda to take all possible steps in accordance with law for the purpose of issuing Scheduled Caste certificate in favour of the petitioners within six weeks from the date of receipt of the copy of the said order with a further direction to cause further enquiry, if required to be done without any delay.

3. It is submitted that by the self-same order, the co-ordinate Bench by its order dated 03.06.2000 further directed the respondent no. 3/SDO, Chanchal to pass a reasoned order which should have been communicated to the writ petitioners of the earlier writ petition. It is argued on behalf of the writ petitioners that probably in the said order, a typographical mistake occurred since in the earlier round of litigation as well as in the instant writ petition, the writ petitioners claimed themselves as Scheduled Tribes.
4. It is further submitted on behalf of the writ petitioners that pursuant to the order as passed in WP 6516 (W) of 2008, the respondent no. 3/SDO, Chanchal started Misc. Case No. 6 of 2009 on June 30, 2009 and, ultimately, by an order dated 07.07.2009, the said respondent wrongly held that the present writ petitioner no. 3, Ananda Mondal is not a Scheduled Tribe and, therefore, the prayer of the writ petitioner no. 3 was rejected. It is submitted that since the writ petitioner nos. 1, 2, 4 and 5 stand on the same footing with the writ petitioner no. 3, all the

writ petitioners preferred an appeal before the Additional District Magistrate (G), Malda, however, the said appeal was also dismissed.

5. The writ petitioners by filing the instant writ petition, has thus impugned the order passed by the respondent no. 3/SDO, Chanchal in Misc. Case No. 6 of 2009 and the order of appeal dated 03.12.2009 as disposed of by ADM(G), Malda.
6. In course of his submission, learned advocate for the writ petitioners at the very outset draws attention of this Court to the order dated 07.07.2009 as passed by the respondent no. 3/SDO, Chanchal. It is submitted that from the said order, it would reveal that though the respondent no. 3 practically accepted that the present writ petitioners belong to 'Kishan' community which is an enlisted Scheduled Tribe community in the State of West Bengal, but for no reason whatsoever, the respondent no. 3/SDO, Chanchal refused to include the present writ petitioners in the Scheduled Tribe community and thus refused to grant Scheduled Tribe certificate as prayed for.
7. It is further submitted that while arriving at his finding dated 07.07.2009, the respondent no. 3/SDO, Chanchal has failed to observe the procedure for disposal of similar such application as mentioned in Clause 9 of the Updated Guidelines for issuance of

SC/ST Certificate vide Memo No. 1203-BCW/MR-88/2014 dated July 27, 2015 issued by the Government of West Bengal. It is further submitted that no field enquiry was conducted by the respondent no. 3/SDO, Chanchal and, therefore, the procedure adopted by the respondent no. 3 is absolutely faulty which the Additional District Magistrate (G), Malda has equally failed to visualize.

8. Learned advocate for the writ petitioners thus prays for issuance of an appropriate order for quashing the finding of the respondent no. 3/SDO, Chanchal as well as the finding of the ADM(G) in appeal. Learned advocate for the writ petitioners further submits that the respondent no. 3/SDO, Chanchal may be directed to revisit its own finding dated 07.07.2009 after causing due field enquiry as prescribed in Clause 9 of the aforementioned Guidelines. It is further submitted that no copy of the field enquiry report was handed over to the writ petitioners either at the time of hearing before the SDO or before the Additional District Magistrate (G), Malda.
9. Per contra, learned advocate for the State places his reliance upon the decision taken by the respondent no. 3/SDO, Chanchal as well as the decision taken by the ADM (G), Malda in the appeal. It is submitted that both the aforementioned authorities while

passing the impugned two orders, duly followed the procedure as mentioned in the aforementioned Guidelines.

10. I have meticulously perused the entire materials as placed before this Court, I have also given my due consideration over the deliberation of the learned advocates for the contending parties.
11. On close scrutiny of the order dated 07.07.2009 as passed by the respondent no. 3/SDO, Chanchal, it appears to this Court that the said SDO while coming to its logical finding found that admittedly 'Kishan' Community is an enlisted Scheduled Tribe Community in the West Bengal. The said SDO while disposing the said Misc. case noticed that the present writ petitioner no. 3, Ananda Mondal though produced a land deed where the caste of his ancestor was recorded as "Kisan" however, in his reasoned order dated 07.07.2009 he noticed that a notification no. 390/CRI dated 13.05.2004 as issued by the Director, Cultural Research Institute, Backward Classes Welfare Department where it has been specifically mentioned that there is 'Chasot' Community in Bengal who are traditionally cultivators and in some places of West Bengal such 'Chasot' Community is also known as 'Kishan' who do not belong to Scheduled Tribe Community.
12. In his reasoned order dated 07.07.2009, the said SDO further recorded that BDO, Ratua-I in its report dated 03.07.2008

mentioned it categorically that on local investigation and on collection of information from the locality that the present writ petitioners belong to “Sat Chasi” or “Chasot” community which is not a Scheduled Tribe Community in West Bengal.

13. This Court considers that being a writ Court, this Court ought not have interfered with the factual finding as recorded by the SDO in absence of any gross abuse of the process of law and/or for non-observation of the procedure as prescribed by law and/or in absence of any finding based on no reasoning at all.
14. It further appears that the finding of the respondent no. 3/SDO, Chanchal is well-reasoned and based on the facts which has been collected through field enquiry by BDO, Ratua-I in accordance with the procedure as mentioned in the Clause 9 of the aforementioned Guidelines.
15. In the appeal also, the ADM(G), Malda has equally applied his independent mind in coming to a conclusion that the present writ petitioners do not belong to the Scheduled Tribe community as prayed for.
16. In view of the discussion made hereinabove, this Court thus finds no reason to interfere with the aforementioned two orders impugned.

17. Accordingly, the instant writ petition being WPA 1420 of 2013 along with all connected application, if therebe any, stands hereby dismissed.
18. Interim order(s), if thereby any, stand(s) hereby vacated.
19. There shall be no order as to costs.
20. Urgent photostat certified copy of this order, if applied for be given to the parties, upon compliance of necessary formalities.

(PARTHA SARATHI SEN, J.)

Sourav
A.R. (Court)