

17.04.2025
Item No.38
gd/ssd

WPA(P)/113/2025
DIPAK CHOWDHURY
VS
THE STATE OF WEST BENGAL AND ORS.

Mr. Sovan Dasgupta,
Ms. Swagata Dasgupta,
Mr. Amitesh Dasgupta
..for the Petitioner.

Mr. Tapan Kumar Mukherjee,
Mr. Nilotpal Chatterjee,
Mr. Amrit Lal Chatterjee
..for the State.

Mr. Dhananjay Banerjee,
Mr. Arup Kumar Bhowmick,
Mr. Proloy Hazra
..for the Respondent Nos.8 to 10.

Mr. Prahlad Chandra Ghosh,
Mr. Subir Hazra
..for the Respondent No.16.

1. The petitioner alleges that the private respondent nos. 8 to 17 have obtained Scheduled Castes/Scheduled Tribes Community Certificates by playing fraud.

2. In this regard, the petitioner sought for certain information under the Right to Information Act from the Sub-Divisional Officer, Malda Sadar namely, the 6th respondent but, however, it appears that the information is yet to be furnished.

3. The petitioner has submitted a representation to the authority specifically mentioned

in the names of the private respondents and alleging that the caste certificates issued to them have been obtained by adopting fraudulent way.

4. The learned advocate appearing for the private respondents would submit that when a statute provides for a remedy, the petitioner should exhaust that remedy and merely by filling an application under Right to Information Act and without receiving any reply the petitioner cannot straightway approach this court by way of a public interest litigation.

5. In this regard, the learned advocate placed reliance on the order passed in WPA(P) 79 of 2024 dated 29.02.2024 in the case of *S.K. Israil v. State of West Bengal and Another*. In the said decision the court took note of the decision of the Hon'ble Supreme Court in the case of *Jaipur Shahar Hindu Vikas Samiti v. State of Rajasthan and Others* in (2014) 5 SCC 530 which was relied by the State in the said case wherein it is held that if there is a mechanism created under a particular Statute, the party should be relegated to the appropriate forum instead of entertaining a writ petition filled as a public interest litigation.

6. In the instant case the petitioner has already approached the competent authority namely, the Sub-Divisional Officer.

7. However, the said application is an application under Right to Information Act and the petitioner submitted separate representation to the Sub-Divisional Officer, Chanchal on 24.09.2024 mentioning the names of all the private respondents.

8. The West Bengal Scheduled Castes and Scheduled Tribes (Identification) Rules, 1995 (hereinafter referred to as “the rules”) has been framed in exercise of the powers conferred under Section 12 of the West Bengal Scheduled Castes and Scheduled Tribes (Identification) Act, 1994.

9. Under Rule 3 the Procedure for Cancellation, Impounding or Revocation of Certificate has been provided for. Sub-rule (1) of Rule 3 would be relevant, where the procedure has been laid down and in terms of the said Rules the Certificate Issuing Authority has defined under Rule 2 (b) (i) is the Sub-Divisional Officer of the Sub-Division concerned.

10. Rule 3(1) empowers the Certificate Issuing Authority to hold a preliminary enquiry when a complaint has been received with regard to false community certificate or he may also take *suo motu* action.

11. Since representation has already been made to the certificate Issuing Authority, we direct the 6th and 7th respondents to consider the representation

submitted by the petitioner, issue notice to the respective persons whose names have been mentioned in the representation who are alleged to have been obtained false community certificate and conduct an enquiry in terms of Rule 3 of the said Rules and take a reasoned decision on merits and in accordance with law after following the principles of natural justice by issuing notice to the private respondents and after affording an opportunity of personal hearing.

12. In order to facilitate the compliance of the above direction, the petitioner is directed to appear in person in the office of the 6th and 7th respondents and submit copies of representations along with copy of this order so as to enable the 6th and 7th respondents to comply with the above direction.

13. Since, several persons are involved, the 6th and 7th respondents shall complete the entire exercise as expeditiously as possible preferably within a period of four months from the date on which the petitioner submits the representation in terms of the above direction.

14. With the above observations, the matter is disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)