

30.04.2025.
Item No. 13.
Court No. 13
ap

M.A.T. No. 540 of 2025
With
I.A. No. CAN 1 of 2025

Lovely Khatun
Versus
The State of West Bengal & Ors.

Mr. Biswarup Mukherjee,
Ms. Dolon Dasgupta.

...For the appellant.

Mr. Monojit Bhattacharya,
Mr. Imtiaz Akhtar,
Mr. Trijit Mitra.

...For the Intervenor.

Mr. Lalit Mohan Mahata, Id. AGP,
Mr. Prasanta Behari Mahata.

...For the State.

1. Affidavit-of-service filed in Court today be taken on record.
2. Rasidabad Gram Panchayat is added as party respondent in the instant proceedings.
3. The learned Advocate-on-record of the appellant shall include the name of the Rasidabad Gram Panchayat in the cause title as a party respondent.
4. Let all pleadings of the appeal be served on the Counsel for the Rasidabad Gram Panchayat in course of tomorrow.
5. The appellant is aggrieved by an order dated 10th March, 2025 passed by a learned Single Judge of this Court in W.P.A. No. 5129 of 2025.
6. The subject matter of the writ petition was an order passed by the Sub-Divisional Officer, Chanchal, Malda cancelling the OBC Certificate of the writ petitioner. Consequently, the writ petitioner who was

elected as Pradhan of the concerned Gram Panchayat was removed from his post after a show-cause notice.

7. The writ petition was filed challenging both the cancellation of the OBC Certificate of the petitioner as also removal from the post of Pradhan.

8. The learned Single Judge found that the appellant/writ petitioner was entitled to prefer an appeal under The West Bengal Scheduled Tribes (Identification) Act, 1994 against the cancellation of a certificate by the Sub-Divisional Officer, Chanchal, Malda before the District Magistrate, Malda. It was also found by the learned Single Judge that the appellant is entitled to file an appeal before the District Magistrate, Malda against the order removing him from the post of Pradhan of the concerned Gram Panchayat. The said two appeals have been filed by the appellant before and after the impugned order was passed.

9. The District Magistrate, Malda was directed by the learned Single Judge to consider the appellant's appeal and stay application within a time frame i.e. the appeal itself within a period of two months and stay application within a period of ten days from the date of filing.

10. It is submitted by the Counsel for the State and the Counsel for the Gram Panchayat that the application for stay in aid of the appeal before the District Magistrate, Malda in respect of cancellation of

OBC Certificate has been refused and disposed of on 18th March, 2025. The appeal is still pending consideration. The appeal and the stay application before the District Magistrate, Malda under the Panchayat Act, 1973 filed by the appellant are also pending consideration.

11. This Court does not find any infirmity with the impugned order. A Writ Court under Article 226 of the Constitution of India generally does not sit in appeal over the findings of an Administrative Authority.

12. The self-imposed restriction on the Writ Court from entertaining a challenge to an order of the Administrative Authority where the provision for appeal is available has its exception i.e. violation of statutory provisions and the principles of natural justice.

13. The writ petition may be entertained even where an alternative remedy of statutory appeal is available depending on the facts and circumstances of each case. In the instant case, it is seen that the appellant himself chosen the statutory route before and after the impugned orders were passed. He has filed appeals both against the order of the Sub-Divisional Officer, Chanchal, Malda under the West Bengal Scheduled Tribes (Identification) Act, 1994 as also against the order removing him from the post of Pradhan.

14. There is, therefore, little scope for interference by this Court with the impugned order.

15. Learned Counsel for the appellant, however, submits that several documents relied upon by the Sub-Divisional Officer, Chanchal, Malda in passing the impugned order cancelling his OBC Certificate has not been made available to him.

16. This Court without entering into the merits of the decision of the Sub-Divisional Officer, Chanchal, Malda (now pending consideration before the District Magistrate, Malda) directs the District Magistrate, Malda to immediately upon receipt of a copy of this order make available to the appellant each and every document relied upon by the Sub-Divisional Officer, Chanchal, Malda in the process of arriving at a finding that the appellant does not belong to OBC Category.

17. The District Magistrate, Malda shall thereupon give an opportunity of personal hearing to the appellant and dispose of the appeal of the appellants under the provisions of The West Bengal Scheduled Tribes (Identification) Act, 1994 mandatorily and positively within a period of one month from date.

18. It is informed by Mr. Mahata, Counsel for the State that District Magistrate, Malda has posted the appeal for hearing on 8th May, 2025.

19. With the aforesaid observations, M.A.T. No. 540 of 2025 shall stand disposed of.

20. In view of disposal of the appeal itself, the connected application being CAN 1 of 2025 shall also stand disposed of.

21. There will be no order as to costs.

22. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)