

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present :- Hon'ble Justice Amrita Sinha

WPA 25645 of 2024

Priyanka Shaw & Ors.

Vs.

The State of West Bengal & Ors.

For the writ petitioners	:-	Mr. Debjyoti Basu, Adv. Mr. Chandan Kr. Lal, Adv. Mr. Parashar Baidya, Adv.
For State	:-	Mr. Debajyoti Datta, Sr. Adv. Mr. Avishek Prasad, Adv.
Hearing concluded on	:-	25.03.2025
Judgment on	:-	08.04.2025

Amrita Sinha, J.:-

1. The order passed by the Sub-Divisional Officer (Sadar), Hooghly cancelling the caste certificate of the petitioners and the order passed by the appellate authority being the Additional District Magistrate (LR), Hooghly affirming the cancellation, both are under challenge in the instant writ petition.
2. The petitioners are full blooded sisters. They claim Scheduled Tribe reservation with the sub-caste Gond. The petitioners, in support of reservation, rely upon the recording of the caste GOUD (গৌড়) (typed in Bengali language) in the deed of sale executed on 1st December, 1947 where her paternal grandfather was one of the parties.

3. It has been contended that the pre-independence document relied upon by the petitioners carries high evidentiary value and the same ought not to be ignored/overlooked by the authority and relying on the same, the reservation benefit ought to be granted in favour of the petitioners.
4. It has been submitted that the predecessors in interest of the petitioners were permanent residents of the said place for more than eighty years and her family members practise the religion and the customs of the said sub-caste.
5. The petitioners rely upon the West Bengal Scheduled Castes and Scheduled Tribes (Identification) Act, 1994 in support of the submission that the Sub-Divisional Officer does not have the power to cancel/revoke/set aside the caste certificate that has been issued in her favour. As the said certificate was not obtained either by suppression of material fact or by practising forgery, the Sub-Divisional Officer is not the competent person to set aside/revoke the caste certificate of the petitioners.
6. The petitioners contend that the cancellation, if any, can be made only by the State Scrutiny Committee. A decision has to be taken by the Scrutiny Committee and only after the Committee is satisfied that the certificate was obtained by any person furnishing any false information or upon misrepresentation of fact or by suppressing any material information or by producing any document which is an act of

forgery, the Committee can issue direction to the certificate issuing authority to cancel or revoke such certificate.

7. There is no case made out by the appellate authority that the petitioners obtained the said certificate either by suppressing material facts or by practising forgery or misrepresentation and accordingly, the order passed by the Sub-Divisional Officer affirmed by the appellate authority is liable to be set aside. Principle of natural justice was not followed at the time of passing the order impugned.
8. The petitioners rely on the judgment delivered by a coordinate Bench of this Court on 10th January, 2020 in the matter of **Krishnapada Sardar & Anr. -vs- State of West Bengal & Ors.** wherein the Court was pleased to direct that the impugned order of cancellation of the reservation certificate was *de hors* the laws and cannot be permitted to stand.
9. The Court held that the Sub-Divisional Officer does not have the power to cancel/ impound or revoke the caste certificate and the same can be done only by the State Scrutiny Committee. As in the instant case, there has been no reference to the State Scrutiny Committee and the Sub-Divisional Officer invoked the jurisdiction to set aside the caste certificate, as such, the order of the Sub-Divisional Officer and the order of the appellate authority affirming the same, are liable to be set aside and quashed by the Court.

10. Reliance has also been placed on the judgment delivered by the Hon'ble Supreme Court in the matter of ***Kumari Madhuri Patil & Anr. Vs. Additional Commissioner, Tribal Community*** reported in ***AIR 1995 SC 94*** wherein the guidelines to be followed at the time of issuance and cancellation of caste certificates have been recorded.
11. Prayer has been made to set aside the impugned order of cancellation of the caste certificates passed by the Sub Divisional Officer and the order of the appellate authority affirming such decision. Prayer has been made to revive and restore the caste certificates so that the petitioners may get the benefit of reservation.
12. The State respondents rely on the affidavit in opposition affirmed by the Sub-Divisional Officer, Sadar Hooghly wherein it has been averred that field enquiries were conducted through the Executive Officer, Bansberia and opportunity of hearing was given to the petitioners. In course of hearing the petitioners relied upon the registered sale deed of the year 1947 wherein the caste/ tribe of the petitioners' paternal grandfather was referred as Goud (গৌড়) (in vernacular). The Sub-Divisional Officer opined that the scheduled tribe certificate obtained by the petitioners was issued due to misrepresentation and suppression of material fact for which the certificates issued to the petitioners stood cancelled.
13. It has been submitted that the Sub-Divisional Officer has the power/ authority to cancel/ revoke the certificate issued in favour of a

candidate if the officer is satisfied that the same had been obtained either by suppression/ misinformation of facts and documents, false declaration.

14. It has been submitted that the caste of the petitioners is not reflected in the chart of the Second Schedule prepared by the Ministry of Law, Justice and Company Affairs (Legislative Department) under the provisions of the Scheduled Caste and Scheduled Tribe's Orders (Amendment) Act, 1976. The various variations of the caste allegedly claimed by the petitioners are also not mentioned in the Schedule, and as such, the benefit of reservation cannot be granted in favour of the petitioners.
15. It has been contended that the caste 'Gond' that is mentioned in the Second Schedule is not the caste which the petitioners claim to be the member of, and the caste of the petitioners is neither the same nor synonymous with 'Gond'. The references to the usage of the said term as synonymous to each other in the dictionaries or the literary works do not have any legal consequence as it is only the caste that is reflected in the Scheduled Castes-Scheduled Tribes order will be allowed reservation.
16. The petitioners and their family members have miserably failed the affinity test related to the tribe 'Gond'. The caste of the petitioners' paternal grandfather is mentioned in vernacular in the registered deed

relied upon by the petitioners, and the said caste is not the same as 'Gond' as mentioned in the Schedule.

17. A complaint was received against the petitioners and their family members from the Bharat Jakat Majhi Pargana Mohal alleging grant of Scheduled Tribe certificate in favour of non-Scheduled Tribe candidates. Similar complaint was also addressed to the National Commission for Scheduled Tribes by the West Bengal Scheduled Tribes Welfare Association.
18. On enquiry it revealed that the petitioners are not following or practising any custom or ritual of the claimed sub-caste. The father of the petitioners disclosed that they do not know any custom or the ritual of the 'Gond' Tribe. They are not Adibasi. The origin of their forefathers was Bihar. The caste recorded in the deed relied upon by the petitioners is not the one which is recorded in the Second Schedule.
19. Learned advocate representing the State respondents relies on the order passed by an Hon'ble Single Judge of the Patna High Court in the matter of **Jai Narayan Shah & Ors. -vs- The State of Bihar & Ors.** reported in **2005 SCC Online Pat 674** wherein the Court was adjudicating as to whether the attempt made by the State of Bihar to treat the communities known as 'Goad' or 'Goud' or 'Gonr' or 'Gour' as Scheduled Tribes community was proper or not. The Court specifically

held that the word 'Gond' vernacular writing in Hindi 'Gaud' could not be written as 'Gond' in English.

20. Reliance has also been placed on the judgment delivered by the Hon'ble Five-Judge Bench of the Hon'ble Supreme Court in the matter of ***State of Maharashtra -vs- Milind & Ors.*** reported in **(2001) 1 SCC 4** wherein the Court held that it is not permissible to hold an inquiry or let in any evidence to decide or declare that any tribe or tribal community or part of or group within any tribe or tribal community is included in the general name even though it is not specifically mentioned in the entry concerned in the Constitution (Scheduled Tribes) Order, 1950. The Scheduled Tribes Order must be read as it is. It is not even permissible to say that a tribe, sub-tribe, part of or group of any tribe or tribal community is synonymous to the one mentioned in the Scheduled Tribes Order if they are so specifically mentioned in it.
21. The Court further held that a notification issued under Clause 1 of Article 342 specifying Scheduled Tribes, can be amended only by law to be made by Parliament. Any tribe or tribal community or part of or group within any tribe can be included or excluded from the list of Scheduled Tribes only by the Parliament by law and not by any other authority.
22. The Court was pleased to put in a word of caution clearly mentioning that it is not open to the State Governments or Courts or Tribunals or

any other authority to modify, amend or alter the list of Scheduled Tribes specified in the notification issued in Clause 1 of Article 342 of the Constitution.

23. The State relies on the West Bengal Scheduled Castes-Scheduled Tribes (Identification) Act, 1941, as amended, and submits that the certificate issuing authority has the power to cancel, impound or revoke a certificate if the authority is satisfied that the same was obtained by furnishing false information / misrepresentation / suppression or forgery. It has been submitted that the Sub Divisional Officer cancelled the caste certificate of the petitioners only after being fully satisfied that the same was obtained on misrepresentation. Prayer has been made to dismiss the writ petition.
24. I have heard and considered the submissions made on behalf of both the parties.
25. The sheet anchor of the petitioners' submission in support of reservation is the deed executed by the paternal grandfather of the petitioners in the year 1947. The caste of the grandfather of the petitioners as mentioned in the deed in vernacular is Goud (গৌড়). On English translation the same can be spelt as Gour and certainly not as Gond. To get himself satisfied as to whether or not the caste certificate was rightly issued to the petitioners, the Sub-Divisional Officer conducted an enquiry wherein it revealed that the family of the

petitioners does not practice any custom and/or ritual followed by the caste Gond. Due opportunity of hearing was granted to the petitioners.

26. A coordinate bench of this Court in the matter of Krishnapada Sardar (supra) was of the opinion that a conjoint reading of Section 9 and 8A of the 1994 Act makes it evident that an enquiry can be made only in the case of false information, misrepresentation, suppression or forgery as per Section 9(1).
27. To arrive at the said opinion the Court took note of another judgment delivered by a coordinate Bench on 25.11.2014 in W.P. No. 12426(W) of 2014 in the matter of ***Darvell Investment and Leasing (I) Private Limited & Ors. -vs- State of West Bengal & Ors.*** wherein it was held that the State Scrutiny Committee has the authority to look into any irregularity or illegality committed in performing/ functioning under the 1994 Act and to make an enquiry with regard to contravention of any provision of the said Act.
28. The Court also took note of the guidelines laid down by the Hon'ble Supreme Court in the matter of Madhuri Patil (supra). The Court held that as the Sub-Divisional Officer did not refer the matter to the State Scrutiny Committee but relied on an enquiry report prepared by the Cultural Research Institute, Backward Class Welfare Department, Government of West Bengal, the order of the Sub Divisional Officer cancelling the reservation certificate was bad.

29. In this case also the report of the Cultural Research Institute has been relied upon by the Sub-Divisional Officer.
30. From the documents annexed to the writ petition it appears that the appellate authority afforded opportunity of hearing to the petitioners and also heard the submission of the Inspector, Backward Class Welfare Department posted under the Sub-Divisional Officer (Sadar), Hooghly and was of the view that the opinion of the State Scrutiny Committee is to be sought to determine the social and the caste status of the petitioners.
31. As per the West Bengal Scheduled Castes and Scheduled Tribes (Identification) Act, 1994 as amended, the State Scrutiny Committee consists of the Secretary, Backward Classes Welfare Department as Chairperson, the Commissioner, Directorate of Backward Classes Welfare Department as Convener and the Director, Cultural Research Institute Backward Classes as Expert Member.
32. Section 9 of the 1994 Act recognizes the power of the State Scrutiny Committee to cancel or revoke the caste certificate. The opinion of the State Scrutiny Committee was duly considered by the appellate authority and on being satisfied that the petitioners do not belong to the reserved tribe, rejected the prayer of the petitioners for revival of the reservation certificate.
33. The petitioners have annexed various orders passed by different fora while dealing with the issue of reservation. All the Courts were of the

consistent opinion that the benefit of reservation ought to reach the proper person and bogus claims ought to be rejected failing which the very purpose of reservation will be frustrated.

34. Learned advocate for the petitioners has strenuously tried to convince the Court that the report of the Cultural Research Institute ought not to be relied upon. The Act of 1994, as amended, prescribes the constitution of the State Scrutiny Committee with the Director of the Cultural Research Institute, Backward Classes as the Expert Member. Hence, the report of the Cultural Research Institute cannot be brushed aside lightly.
35. In the instant case, the certificate issuing authority after thorough enquiry and after affording reasonable opportunity of hearing, cancelled the reservation certificate of the petitioners. The said order stood affirmed by the appellate authority on perusal of the report of the State Scrutiny Committee. It does not appear that the decision-making process to arrive at the decision that the petitioners do not belong to the reserved category, can be faulted in any manner.
36. On the contrary it appears that, the authority applied the required checks and safeguards and ensured that the petitioners were granted due opportunity of hearing to place all documents in support of the prayer for reservation. In the other matters referred to by the learned advocate for the petitioners passed by coordinate Benches of this Court it appears that, in quite a few matters opportunity of hearing

was not granted to the candidates and even in one case, the petitioners did not get to know that their reservation certificate stood cancelled. Such is not the case here.

37. When the fact finding authority, after consideration of all relevant facts and data, has come to a definite finding that the petitioners do not belong to the reserved category, it will not be proper for the writ court to dislodge such finding.
38. The Hon'ble Supreme Court in the matter of Milind & Ors. has clearly laid down that it is not open for the Courts to modify, amend or alter the list of the Scheduled Tribes specified in the notification issued under Clause 1 of Article 342. Here, the caste/tribe of the petitioners is not included in the list of Scheduled Tribes. It will not be proper for the Court to extend the benefit of reservation to them.
39. The Court is of the opinion that neither of the impugned orders passed by the authorities call for any interference. Accordingly, no relief can be granted to the petitioners.
40. The writ petition fails and is hereby dismissed.
41. No costs.
42. Urgent certified photocopy of this judgment, if applied for, be supplied to the parties or their advocates on record expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)