

16.04.2026
Court No.12
Item No. 5
Cp/Gb

MAT 399 of 2026
with
CAN 1 of 2026

Khukurani Mondal (Ghorai)
Vs.
The State of West Bengal & Ors.

Mr. Jayanta Narayan Chatterjee, Sr. Advocate
Mr. Dinesh Pani
Ms. Sulagna Sen
Mr. Supreem Naskar
Ms. Jayashree Patra
Ms. Pritha Sinha
Mr. Suprovo Dey

.....for the appellant.

Mr. Billwadal Bhattacharyya, Sr. Advocate
Mr. Anish Kumar Mukherjee
Ms. Megha Datta
Mr. Tamoghna Pramanick

.....for the respondent no.7.

Mr. Vivekananda Bose
Ms. Susmita Chatterjee

.....for the State.

The appellant is aggrieved by a judgment and order dated February 25, 2026, passed by a learned Single Judge while disposing two writ petitions, namely, WPA No. 21813 of 2025 and WPA No.20033 of 2025. By the order impugned, the learned court directed the Sub-Divisional Officer to take appropriate steps for cancellation of the OBC certificate of the appellant within a week from the date of receipt of the order.

The court observed that there was no illegality in the order passed by the Sub-Divisional Officer dated July 23, 2025, inter alia, concluding that the appellant belong to sub-caste "Tanti, Tantubaya". His Lordship considered the report of the enquiry committee constituted by the Sub-Divisional Officer. The committee made a preliminary enquiry with regard to the caste certificate of the appellant.

It is submitted by Mr. Bhattacharyya, learned senior advocate who represents the writ petitioner/respondent no. 7 that Rule 3 of the West Bengal SC and ST (Identification) Rules, 1995 was followed by the Sub-Divisional Officer and the enquiry revealed that the caste certificate of the appellant was issued wrongly. She did not belong to the OBC category. It is further submitted that a show-cause notice was issued to the appellant. The appellant appeared before the committee, but could not prove her caste. However, she never raised any complaint with regard to the procedure adopted by the Sub-Divisional Officer.

Learned junior standing counsel represents the state respondents and submits that the relevant law was followed and the decision was taken by the Sub-Divisional Officer. The decision of the Sub-Divisional Officer was upheld by the learned Single Judge and steps have been taken for cancellation of the certificate. The order has been passed.

Mr. Chatterjee, learned senior advocate who appears for the appellant, submits that the State Level Committee ought to have been constituted and made a scrutiny in this

regard before any decision could have been taken by the Sub-Divisional Officer with regard to the caste of the appellant. The learned Single Judge failed to take into account the provisions of Section 8A and Section 9 of the West Bengal Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, while directing the authority to take steps in accordance with law by cancelling the certificate.

In the meantime, it appears that the certificate has been cancelled. However, we find from paragraph 20 of the judgment impugned before us that His Lordship has dismissed the writ petition no. WPA 20033 of 2025, inter alia, holding that the appellant had a right of appeal under Rule 7G of the West Bengal Scheduled Castes and Scheduled Tribes (Identification) Rules, 1995 (hereinafter referred to as the 'said Rule'). This finding is incorrect in view of the fact that the order of cancellation had not been passed by the authority at this stage. In any event, His Lordship considered the enquiry report and the factual disputes which were pointed out in the enquiry report and relied upon by the Sub-Divisional Officer.

The decision of the authority which was upheld by the learned writ court were based on disputed questions of fact with regard to the caste of the mother, grandfather and father of the appellant, etc. Rightly these disputes could not have been gone into by the writ court. When the writ petition was filed, the order of cancellation had not been

passed. The subsequent order of cancellation has given rise to a fresh cause of action in favour of the appellant to prefer an appeal under Rule 7G of the said Rules. His Lordship also noted the provision of appeal, but proceeded to deal with the other writ petition seeking cancellation of the certificate.

Thus, we allow the appellant to prefer an appeal from the order of cancellation. The order of cancellation was passed on February 27, 2026, that is, during the pendency of the appeal.

We make it clear that, as the order impugned before us is based on the factual aspects pointed out by the Sub-Divisional Officer, the observations of His Lordship will not be binding on the appellate authority. The other issues raised by the appellant are that, the appellant was not heard, opportunity was not given to the appellant to collect the relevant documents in support of her contention and produce the same before the authority, that the prayer for adjournment was refused. These issues shall be raised before the appellate authority and the appellate authority will decide the entire issue in accordance with law. However, the contention of Mr. Chatterjee that before any enquiry was made, by the Sub-Divisional Officer, the State Level Committee ought to have been constituted to enquire into the matter, is not entertained as we find that decision was taken by the authority under the provisions of Section 9(1) of the said Act. The correctness of the order of the Sub-

Divisional Officer will be decided independently and in accordance with law. The decision of the learned Single Judge that Section 9(2) of the Act will not take away the power of the Sub-Divisional Officer under Section 9(1) of the said Act, is correct, but the other observation on facts shall not bind the appellate authority.

Accordingly, the appeal and the connected application are disposed of.

Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)