

In The High Court at Calcutta
CONSTITUTIONAL WRIT JURISDICTION
(Appellate Side)

W.P.A. 24871 OF 2026

TUMPA BISWAS ALIAS TUMPA ROY
VS.
THE STATE OF WEST BENGAL AND OTHERS
.....

Mr. Kishore Datta, Sr. Adv. (*Via VC*)
Mr. Vivekananda Bose, Adv.
Mr. Soham De Dhara, Adv.
Mr. Ratikanta Pal, Adv.

... For Petitioner

Mr. Rajdeep Majumder, AAG
Mr. Madhu Jana, Adv.
Mr. Srijit Halder, Adv.

...For State

1. Affidavit-of-service filed on behalf of petitioner is taken on record.
2. By presenting this writ petition propriety of Bongaon Police Station FIR No.703/2026 dated 30th August, 2026 is questioned by the petitioner.
3. Mr. Kishore Datta, learned Senior Advocate representing petitioner on virtual mode submits in reference to complaint dated 30th August, 2026 that such complaint was lodged by an advocate and it is contrary to the procedure as contemplated under Rule 7 of the West Bengal Scheduled Castes and Scheduled Tribes (Identification), Rules, 1995 (hereinafter referred to as “*said Rules of 1995*”). Placing reliance on Section 10 of West Bengal Scheduled Castes and Scheduled Tribes (Identification) Act, 1994 (hereinafter referred to as “*said Act of 1994*”), it is submitted that in the event of furnishing false information, misrepresentation of fact, suppression of material information and/ or production of any document procured through act of forgery in order to obtain a certificate under the said Act of 1994, same is

punishable with imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees or with both provided certificate issuing authority files complaint against errant person under Rule 7 of the said Rules of 1995.

4. Therefore, according to petitioner, initiation of aforesaid criminal prosecution based on complaint dated 30th August, 2026 is bad and not maintainable. In support of such contention reliance is placed on the judgment of the Hon'ble Supreme Court reported in ***(2018) 7 SCC 581 (Sheila Sebastian vs. R. Jawaharaj and Another)***.
5. It is also contended on behalf of petitioner that the alleged forged certificate was not used by petitioner and same was surrendered before the concerned authority.
6. While opposing prayer made on behalf of petitioner Mr. Rajdeep Majumder, learned Additional Advocate General representing State respondents has submitted that there is no statutory bar in taking steps based on complaint lodged on 30th August, 2026 which discloses cognizable offence. According to State respondents, irrespective of the provisions as contained under said Act of 1994 and said Rules of 1995, there is no statutory embargo in initiating aforesaid criminal prosecution.
7. On perusal of complaint dated 30th August, 2026, it appears that complaint was lodged against the petitioner alleging fraudulent procurement and usage of Scheduled Caste Certificate, number of which is mentioned in the complaint. It is also disclosed in the complaint that after bringing the issue to the notice of

Sub-Divisional Officer (SDO), Bongaon and Assistant Commissioner for Reservation & Ex-Officio Assistant Secretary to the Government of West Bengal on 29th December, 2025 and 28th April, 2026 respectively, SDO, Bongaon cancelled the said Scheduled Caste Certificate which was issued in favour of petitioner.

8. Notwithstanding Rule 7 of the said Rules of 1995 that certificate issuing authority shall file complaint against any person in the event of furnishing false information, misrepresentation of fact, suppression of material information and/ or production of document resorting to act of forgery, there is no express bar in lodging complaint in the case of procurement of fake Caste Certificate.
9. Since investigation is going on, this is not the appropriate stage for making an inference whether charge of forgery is imposed on a person who is not the maker of same as it has been held in paragraph 25 of ***Sheila Sebastian*** (*supra*).
10. Moreover, there is alternative remedy available to petitioner by approaching appropriate forum for obtaining pre-arrest bail, if petitioner apprehends that she may be arrested in connection with aforesaid impugned criminal prosecution.
11. In aforesaid consideration this Court is not inclined to interfere with this writ petition and same stands dismissed.
12. However, this order shall not preclude petitioner to approach appropriate forum in pursuit of remedy.
13. Communication dated 10th September, 2026 of Inspector-in-Charge, Bongaon Police Station, North 24

Parganas is filed today and same is taken on record.
Copy of the said communication is made over to
learned advocate representing petitioner.

14. Parties to act on the server copy of this order duly
downloaded from the official website of this court.

(SAUGATA BHATTACHARYYA, J.)