

**HIGH COURT OF TRIPURA
AGARTALA**

**WP(C)No.524 of 2022
&
WP(C)No.525 of 2022**

in WP(C)No.524 of 2022

Bimal Chandra Sarkar

----Petitioner(s)

Versus

The State of Tripura

---- Respondent(s)

in WP(C)No.525 of 2022

Sukhlal Sarkar

----Petitioner(s)

Versus

The State of Tripura

---- Respondent(s)

For Petitioner(s)	:	Mr. P. Roy Barman, Sr. Adv. Mr. S. Bhattacharjee, Adv.
For Respondent(s)	:	Mr. D. Sharma, Addl. G.A.
Date of hearing	:	30.06.2022
Date of delivery of Judgment & Order	:	01.07.2022
Whether fit for reporting	:	NO

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order

This is a petition under Article 226 of the Constitution of India for quashing the summons dated 07.06.2022 and 16.06.2022 issued by the Member-Secretary, State Level Scrutiny Committee-the respondent No.4.

2. It is the case of the petitioner that the petitioner belongs to Namasudra Community and in the year 1981 the Scheduled Caste certificate has been issued in favour of the petitioner. Since then, he is utilizing the said certificate for all legitimate purposes. All on a sudden, in the year 2005, in course of verification of his caste status vigilance cell of the SLSC conducted enquiry and submitted verification report holding that the petitioner belongs to SC community. Despite that, in the year 2015, the SLSC issued show cause notice to the petitioner as to why his SC certificate shall not be cancelled. In reply, the petitioner has stated that in view of the vigilance report which is in his favour further proceeding is forbidden in terms of Rule 7A(5) of the Tripura Scheduled Castes and Scheduled Tribes Reservation Rules, 1992. Again, all on a sudden another summons/notices have been issued on 07.06.2022 and 16.06.2022 which is impermissible in terms of the mandate of the Rule 7A(5) of the Rules, 1992. Against all notices the petitioner has submitted his reply. The final decision is yet to be passed.

3. Recently, the respondents, State Level Committee has issued a summon calling upon the petitioner to appear before the Committee for verification and the said date of hearing has been scheduled on 14.06.2022 at 3 p.m. in the chamber of the Chairman, State Level Scrutiny Committee (Special Secretary, SC Welfare Department), New Secretariat Building, Capital Complex, 2nd Floor, Block No.5 & 6, Room No.6204. A representation has been made on behalf of the petitioner and sought for an adjournment and the same was accommodated and the next date was fixed on 29.06.2022 at

3 p.m. along with a lawyer in the chamber of the Chairman, State Level Scrutiny Committee (Special Secretary, SC Welfare Department), New Secretariat Building, Capital Complex, 2nd Floor, Block No.5 & 6, Room No.6204. Aggrieved thereby, the present writ petition has been filed.

4. Mr. D. Sharma, learned Addl. G.A. appearing for the respondents submits that there is no infirmity in calling for the enquiry in order to verify the correctness and the vigilance report and to get rid of any doubt with regard to the said certificate, the present summons was issued.

5. In reply, Mr. P. Roy Barman, learned senior counsel assisted by Mr. S. Bhattacharjee, learned counsel appearing for the petitioner has relied upon Rule 7A, 7A(4) and 7A(5) of the Tripura Scheduled Castes and Scheduled Tribes Reservation Rules, 1992. Rule 7A, 7A(4) and 7A(5) read as under :

"7A Constitution, Powers and Functions of the Scrutiny Committee.

(1) At the State Level there shall be two Scrutiny Committees as follows –

(a) For verification of community status of Scheduled Caste Certificate holders, the Scrutiny Committee shall consist of :-

(i) The Secretary-in-charge of Department for Welfare of Scheduled Castes, Other Backward Classes and Minorities - Chairman.

(ii) The Director for Welfare of Scheduled Castes and Other Backward Classes - Member-Secretary

(iii) Joint Secretary or Deputy Secretary of the Law Department] – Member

[(iv) Additional Director or Joint Director or Deputy Director for Welfare of Scheduled Castes & Other Backward Classes - Member

(b) For verification of community status of Scheduled Tribe certificate holders, the Scrutiny Committee shall consist of :-

(i) The Secretary-in-charge of the Tribal Welfare Department- Chairman

- (ii) The Director for Welfare of Scheduled Tribes - Member-Secretary
- (iii) The Director, Tribal Research Institute – Member
- (iv) Joint Secretary or Deputy Secretary of the Law Department]1 - Member

(2) *****

(3) *****

(4) The Member-Secretary of the Scrutiny Committee concerned, on receipt of the report from the Director of Vigilance if finds the claim for community status is not genuine or doubtful or spurious or falsely or wrongly claimed, the Member-Secretary concerned shall issue show-cause notice supplying a copy of the report of the vigilance officer to the community certificate holder by a registered post with acknowledgement due or through the head of the institution or office concerned in which the certificate holder is studying or employed. The notice should indicate that the representation or reply, if any, would be made within two weeks from the date of the receipt of the notice and in no case, on request, not more than 30 days from the date of receipt of the notice. In case, the certificate holder seeks an opportunity of hearing and claims an inquiry to be made in that behalf, the Member-Secretary on receipt of such representation or reply shall convene the meeting of the committee and the Chairperson of the Committee shall give a reasonable opportunity to the certificate holder and in case the certificate holder is a minor to the parent or guardian to adduce all evidences in support of his claim. A public notice by beat of drum or any other convenient mode may also be published in the village or locality and if any person or association opposes such a claim, an opportunity to adduce evidence may also be given to him or it. After giving such opportunity in person or through counsel, the Committee may make such inquiry as it deems expedient and consider the claims vis-a-vis the objections raised by the certificate holder or opponent and pass an appropriate order with brief reasons in support thereof.

Provided that in case a certificate holder engages a legal practitioner to represent his case before the Scrutiny Committee, the Director for Welfare of Scheduled Castes and Other Backward Classes or the Director for Welfare of Scheduled Tribes as the case may be, may engage a lawyer.

Provided further that before passing a final order, the Committee shall also take into consideration the local enquiry report of the Sub Divisional Magistrate and opinion of the Sub-Committee concerned.

(5) In case the report is in favour of the certificate holder and found to be genuine and true, no further action need be taken except where the report or the particulars given are procured or found to be false or fraudulently obtained and in the latter

event the same procedure as is envisaged in sub-rule (4) shall be followed.

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6. In Rule 7A the persons having the jurisdiction with regard to issuance and cancelling the certificates has been given under Scheduled Caste category. Rule 7A(4) provides that the procedure has been contemplated for purpose of conducting the enquiry and for issuing and cancelling the certificate. Rule 7A(5) provides that in case the report is in favour of the certificate holder and found to be genuine and true, no further action need be taken except where the report or the particulars given are procured or found to be false or fraudulently obtained and in the latter event the same procedure as is envisaged in sub-rule(4) shall be followed.

Sub-rule(5) cannot be read separately but has to be read in entirety in connection with Rules 7A, 7A(4) and 7A(5). Since 7A of the said rule deals with the concerned authority and the procedure has been enunciated in Rule 7A(4), to have the benefit of Rule 7A(5) the petitioner needs to face the committee and then take the advantage of Rule7A(5).

7. Since the petitioner is taking benefit of the said certificate and if it is true that the petitioner belongs to Namasudra Community, so far the petitioner is concerned, this is for the first time he has to face the Committee and the said summons have been against him and nothing prevented the petitioner from facing the same and no prejudice would be causing to the petitioner in facing the Committee.

8. A reasonable apprehension has been drawn against the petitioner, when a Caste certificate is issued and is doubted and the enquiry is conducted and after enquiry, the concerned authority needs to pass a speaking order by verifying the complaint or allegations, if any, and after giving reasonable opportunity to the petitioner an adverse order is passed against the petitioner that would amounts to violation of principles of natural justice.

9. In view of the same, this court is not convinced with the argument of the counsel for the petitioner that the Committee summoning him for making his submissions is not relevant and the same is without any jurisdiction, is not acceptable to this court.

10. In view of said submissions as advanced by the counsel for the parties, this court is not inclined to accept the contentions made by the petitioner and accordingly, rejects the case of the petitioner and directs the respondents to proceed with the enquiry in accordance with law and take a decision as expeditiously as possible. It is needless to observe that the petitioner shall cooperate with the enquiry before the committee.

With the above observation and direction, this writ petition is dismissed.

JUDGE