

**THE HIGH COURT OF TRIPURA
AGARTALA
WP(C) 40 OF 2014**

Smti. Mousumi Debbarma,
 D/o Sri Kajal Debbarma,
 Resident of Dhaleshwar, Road No.1,
 P.O. Dhaleshwar, P.S. East Agartala,
 District West Tripura, PIN 799007.

... **Petitioner**
- Vs -

1. The State of Tripura,
 To be represented by-
 The Commissioner-cum-Secretary,
 Tribal Welfare Department,
 Government of Tripura,
 Secretariat Complex, Kunjaban,
 West Tripura, Agartala, PIN 799006.

2. The State Level Scrutiny Committee,
 To be represented by its Member Secretary,
 Director of Welfare for Scheduled Tribes,
 Government of Tripura,
 Pandit Nehru Complex, Gurkhabasti,
 P.O. Kunjaban, West Tripura, Agartala,
 PIN-799006.

3. The Member Secretary,
 State Level Scrutiny Committee,
 (Director of Welfare for Scheduled Tribes,
 Government of Tripura),
 Pandit Nehru Complex, Gurkhabasti,
 P.O. Kunjaban, West Tripura, Agartala,
 PIN-799006.

4. The Member,
 State Level Scrutiny Committee,
 (Director, Tribal Research Institution,
 Government of Tripura, Agartala).

5. The Director,
 Printing & Stationery Department,
 Government of Tripura, Agartala.

6. The Chairman,

State Level Scrutiny Committee,
 (The Commissioner & Secretary,
 Tribal Welfare Department,
 Government of Tripura,
 Secretariat Complex, Agartala,
 PIN 799006)

7. Sri Himangshu Roy (Inquiry Officer)

Sub Inspector of Police (Vigilance)
 Police Head Quarter, Fire Brigade Chowmohani,
 Agartala, West Tripura,
 (Notice to be served through the Deputy Supdt.
 Of Police, Government of Tripura, Agartala).

....Respondents.

**BEFORE
THE HON'BLE MR. JUSTICE S.C. DAS**

For the petitioner	: Mr. P.Roy Barman, Advocate.
For the respondents	: Mr. S.Chakraborty, Addl. G.A.

**Date of hearing
& delivery
Judgment & Order**

: 30.11.2016.

Whether Fit for reporting : **NO**

JUDGMENT & ORDER(ORAL)

Heard learned counsel, Mr. P. Roy Barman for the petitioner and learned Addl. G.A., Mr. S. Chakraborty for the State-respondents.

2. By filing this writ petition, the petitioner challenged order dated 07.11.2005 passed by the State Level Scrutiny Committee in respect of the Caste Status Certificate of the petitioner. The impugned order dated 07.11.2005 passed by the State Level Scrutiny Committee reads as follows:-

**"STATE LEVEL SCRUTINY COMMITTEE
(CONSTITUTED BY THE GOVERNMENT VIDE GA (AR)
DEPARTMENT NOTIFICATION NO.F.11(66)-GA(AR)/2001
Dated 15-4-2004**

In the matter of Smt. Mousumi DebBarma, D/O Sri Kajal DebBarma of Dhaleswar, Road No.1, PS. East Agartala, West Tripura.

ORDER

***Date
7/11/2005***

The State Level Scrutiny Committee has examined the caste status of matter Smt. Mousumi DebBarma, D/O Sri Kajal DebBarma of Dhaleswar, Road No.1, PS. East Agartala, West Tripura and also examined the reply of Show cause Notice dated 22-6-2005 submitted by Smti. Mousumi DebBarma to Director, Tribal Welfare, Government of Tripura, Gorkhabasti, Agartala. The Committee has gone through the Vigilance enquiry report about the caste status of Smt. Deb Barma.

On careful consideration of all records the Committee has come to the conclusion that Smt. Mousumi DebBarma belongs to Laskar Community. The ST certificate bearing NO.F.XII-2/SDO/SDR/2003-04/233 dated 14-10-2003 held by Smt. Mousumi DebBarma is no longer valid after the issue of Notification No.38296-396/F.6-4(C-D)/TW/89 dated 31-3-90 by the Tribal Welfare Department. So the said Scheduled Tribes Certificate is hereby cancelled and Smti. DebBarma is directed to return the original ST certificate to the Director Tribal Welfare, Government of Tripura, Gorkhabasti Agartala immediately.

A copy of this order be supplied to Smti. Mousumi DebBarma.

<i>Sd/- Member Secretary (Director, Tribal Welfare Department)</i>	<i>Sd/- Chairman (Commissioner & Secretary Tribal Welfare)</i>
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*Sd/-
Member,
(Director, Tribal Research Institute)"*

- 3.** It is the case of the petitioner that the State Level Scrutiny Committee i.e. respondent No.2, without following the prescribed procedure and without affording any opportunity to the petitioner cancelled the Caste Status Certificate of the petitioner and, therefore, that order cannot stand is liable to be set aside.

4. It is, inter alia, contended by the petitioner that Caste Status Certificate of her father Kajal Debbarma and her sister Madhumita Debbarma were also cancelled by the State Level Scrutiny Committee and the cancellation order was challenged by filing WP(C) 78 of 2006 and WP(C) 81 of 2006 respectively by Kajal Debbarma and Madhumita Debbarma and the writ petition was allowed and thereby the order passed by the Scrutiny Committee cancelling the Caste Status Certificate of the Kajal Debbarma and Madhumita Debbarma were set aside. The petitioner contended that she was waiting for the result of the writ petition filed by her father and sister and therefore, she did not approach this Court immediately after her Caste Status Certificate was cancelled.

5. The respondents contended that the Caste Status Certificates of father and sister of the petitioner were cancelled by the Scrutiny Committee and that order of cancellation was challenged in the High Court by filing writ petition and against the order passed by the Single Bench of this Court the State preferred appeal before the Division Bench. Appeals are pending. The Respondents also contended that the Caste Status Certificate of the petitioner was cancelled observing all the formalities.

6. Learned counsel, Mr. Roy Barman has submitted that the writ appeals preferred against the judgment of the

Single Bench was not set aside, but the Division Bench remanded the matter back to the State Level Scrutiny Committee for decision afresh. He prayed for setting aside the cancellation order of the petitioner and remanding the same back to the State Level Scrutiny Committee for decision afresh after affording opportunity to the petitioner in terms of the order passed by this Court in the writ petitions and in the writ appeal in respect of the father and sister and others.

7. Learned Addl. G.A. fairly admitted the position. I have examined the records of Writ appeal 23 of 2014. The record shows that the common judgment dated 25.11.2013 passed in WP(C) 78 of 2006 and WP(C) 81 of 2006 and other connected writ petitions were disposed of by the appellate forum with the following observation:-

"19. Therefore, though, we are in agreement with the learned Single Judge that the order of the SLSC was bound to be set aside, we are in respectful disagreement with regard to his finding that the matter should not be remanded to the SLSC. We, therefore, allow the appeals of the State to this limited extent and remand all the cases to the SLSC who shall now proceed with the matter from the stage of the reply filed to the show cause notices. The SLSC shall permit the petitioners to cross-examine the witnesses examined by the Inquiry Officer. It shall also permit the petitioners to examine any witnesses, if they so desire or to produce any other documents. In cases, the petitioners lead evidence then the State shall also be given an opportunity to produce evidence to the contrary. This exercise must be completed on or before 28th February, 2016. All the petitioners are directed to appear before the SLSC on 12th August, 2015.

The Registrar General is directed to send a copy of this judgment to the SLSC and the members of the SLSC are directed to ensure that in all cases in

the future they follow the law laid down by this Court.

Send down the LCRs forthwith."

8. The petitioner did not challenge the impugned order dated 07.11.2005 within a reasonable period by filing the writ petition. The reasons assigned are that she was waiting for the fate of the writ petitions filed by her father and sister. Since some reasons have been assigned, I am of considered opinion that the writ petition should not be dismissed on the ground of delay and laches.

9. Impugned order dated 07.11.2005 shows that a show cause notice was issued to the petitioner and she submitted show cause reply and considering her show cause reply and the vigilant report, the State Level Scrutiny Committee cancelled the Caste Certificate of the petitioner without affording her any opportunity of hearing as per the rules. The observation of the Single Bench of this Court in the cases of her father and sister that reasonable opportunity was not given was upheld by the Division Bench but the Division Bench remanded the matter back to the Scrutiny Committee for deciding the issue afresh affording opportunity to the parties.

10. It is quite evident that the impugned order dated 07.11.2005 was passed mechanically without affording opportunity of hearing the petitioner and hence, order dated

07.11.2005 passed by the Scrutiny Committee is set aside and quashed.

11. The matter is remanded back to the State Level Scrutiny Committee for deciding the matter afresh after affording opportunity to the parties as required by law.

12. With the above observation, the writ petition stands disposed of.

JUDGE