

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson and Administrative Member

Case No. – OA 03 OF 2023

MRINMAY KARMAKAR & ANR. - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	:	Mr. Samir Kumar Adhikari, Mr. Manujendra Narayan Roy, Advocates
<u>3</u> 11.08.2023	For the Respondents	:	Mr. Gautam Pathak Banerjee, Advocate

The matter is taken up by the single Bench pursuant to the order contained in the Notification No.638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under section 5(6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the parties, the case is taken up for consideration sitting singly.

The prayer in this application is for a direction to the respondents to complete the verification process and permit the applicants to join the post of Constables in West Bengal Police, 2019.

In short, as it appears from the submissions of the learned counsels and the records, the applicants were successful in the recruitment process for the post of Constables and their names featured in the list of successful candidates. However, during the P.V.R. stage a question was raised whether the applicants actually belonged to the Scheduled Caste community or not. It appears from the documents in this application that the Sub-Divisional Officer, Jhargram Sadar Sub-Division issued a notice to the applicants asking them to deposit the original caste certificates. Later, from page 46 onwards it appears that the S.D.O. passed a reasoned order dated 12.11.2021 elaborating in detail the question of whether the applicants belong to SC category or not. In conclusion, the reasoned order states that the applicants belong to Karmakar community and not Lohar community. Since Karmakar community is an OBC category and not Scheduled Caste community, therefore, through false representation they were issued caste certificates. The reasoned order finally passes order cancelling these Scheduled

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Caste Certificates issued to the applicants directing them to collect their OBC certificates instead.

Aggrieved by such a decision of the S.D.O. which was also upheld by the District Magistrate, the applicants preferred a writ petition being WPA 13372 of 2023 before the Hon'ble High Court. The Hon'ble High Court, considering the matter and allowing the writ petition, directed the S.D.O. to re-hear the matter after giving an opportunity of fresh hearing to the petitioners. The Hon'ble Court also directed that after re-hearing is over, the S.D.O. shall decide the matter afresh in accordance with law preferably within three months.

Mr. M.N. Ray, learned counsel in support of his submission draws the attention of the Tribunal to page 69, which is an order of the Hon'ble high Court in W.P.A. 3762 of 2022.

In response to the prayer in this application and submissions of Mr. S.K. Adhikari and Mr. Ray, Mr. G.P. Banerjee, learned counsel for the respondents contests that the prayer in this application is not admissible for the reason that the very caste certificate upon which the applicant became successful has been cancelled by the competent authority. So, not only this application is inadmissible, but also the candidature of the applicants as Constables as SC category is under Departmental scrutiny.

After hearing the submissions of the learned counsels and considering the facts and circumstances of the case, this Tribunal is of the considered opinion that the prayer in this application hinges on the final order to be passed by the respondent, the S.D.O., Jhargram as per the direction of the Hon'ble High Court in W.P.A. 13372 of 2023. Since the S.D.O. has not yet heard the matter and passed the final order, at least such a copy is not available in the records today, let the matter appear under the heading "Hearing" on 11.10.2023.

SCN.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON
and MEMBER (A)