

**IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE**

Present:

The Hon'ble Justice Krishna Rao

W.P.A. No. 21813 of 2025

Ranajit Rakshit

Vs.

The State of West Bengal & Ors.

With

W.P.A. No. 20033 of 2025

Khukurani Mondal Ghorai

Vs.

The State of West Bengal & Ors.

Mr. Billwadal Bhattacharyya, Sr. Adv.

Mr. Anish Kumar Mukherjee

Ms. Megha Datta

... For the petitioner in WPA 21813 of 2025
and for the respondent no.8 in WPA 20033 of
2025.

Mr. Kartik Chandra Kapas

Mr. Dinesh Pani

Ms. Sulagna Sen

... For the petitioner in WPA 20033 of 2025
and for the respondent no. 7 in WPA 21813 of
2025.

Mr. Vivekananda Bose
Ms. Susmita Chatterjee

... For the State in WPA 21813 of 2025

Mr. Swapan Banerjee, Ld. AGP
Ms. Subhra Nag

... For the State in WPA 20033 of 2025

Hearing Concluded On : 10.02.2026

Judgment On : 25.02.2026

Krishna Rao, J.:

1. The petitioner in WPA No. 21813 of 2025, has prayed for cancelation of the Other Backward Classes Certificate of the private respondent in terms of Section 9 of the West Bengal Scheduled Castes and Scheduled Tribes (Identification) Act, 1994 read with Rule 5 of the West Bengal Scheduled Castes and Scheduled Tribes (Identification) Rules, 1995.
2. The petitioner in WPA No. 20033 of 2025, has prayed for setting aside the impugned order passed by the Sub-Divisional Officer, Tamluk in Case No. 10/2025 dated 23rd July, 2025, wherein it is held that the petitioner does not belong to the Other Backward community.
3. The writ petitioner in WPA No. 21813 of 2025 contested Panchayat Elections, 2023 in the State of West Bengal in Booth No. 148 in

Iswarpur No.5 Gram Panchayat, under Chandipur Block under the banner of Bharatiya Janata Party as an Other Backward Classes Candidate (Kansari). The private respondent who is the writ petitioner in WPA No. 20033 of 2025 contested the same election under the banner of Trinamool Congress for the post of Pradhan, which was reserved for the candidates belonging to the Other Backward Classes category. The private respondent was elected as Pradhan and at present the private respondent holding the post of Pradhan, Iswarpur Gram Panchayat.

4. Subsequent to the elections, the petitioner came to know that the OBC Certificate relied upon by the private respondent on the basis of which the private respondent has contested the elections for the Post of Pradhan as OBC category, has obtained the said certificate fraudulently. The petitioner has made several requests to the authorities for cancellation of the OBC Certificate of the private respondent but no action was taken.
5. The petitioner, finding no other alternative, has filed a writ application being WPA No. 22555 of 2023 praying for cancellation of the OBC Certificate of the private respondent. The said writ petition was disposed of by the Coordinate Bench of this Court by an order dated 15th January, 2025, directing the Sub-Divisional Officer to conduct a re-enquiry and to ascertain the proper category of the private respondent and to pass a reasoned and speaking order within twelve (12) weeks from the date of receipt of the order.

6. In terms of the order passed by this Court, the Sub-Divisional Officer has conducted enquiry and after giving an opportunity of hearing to the private respondent, the Sub-Divisional Officer passed an order on 23rd July, 2025, holding that the private respondent does not belong to the OBC community, sub-caste Tanti (Tantubaya).
7. Mr. Billwadal Bhattacharyya, Learned Senior Advocate representing the writ petitioner in WPA No. 21813 of 2025 submits that the Coordinate Bench of this Court by an order dated 15th January, 2025, categorically directed that if the allegation of the petitioner is proper, then necessary remedial measures shall be taken but though the Sub-Divisional Officer held that the private respondent does not belong to the OBC community but failed to take further steps for cancellation of the OBC Certificate of the private respondent.
8. Mr. Bhattacharyya submits that the petitioner has also made a representation to the respondent no.3 for taking appropriate steps for immediate cancelation, impounding and revocation of the OBC Certificate of the private respondent but no further steps have been taken by the respondent no.3.
9. Mr. Bhattacharyya submits that though the respondent no.3 has held that the private respondent does not belong to the OBC community but the private respondent is continuously holding the post of Pradhan on the basis of the OBC Certificate. He submits that the post of Pradhan of Iswarpur Gram Panchayat is reserved exclusively for the OBC category

and it is established that the private respondent does not belongs to OBC category but still the private respondent is allowed to continue to be the Pradhan of the said panchayat.

10. Mr. Bhattacharyya submits that by the order of the Sub-Divisional Officer, it is conclusively established that the private respondent has obtained OBC Certificate by fraudulent means and, by reason thereof, unlawfully contested the election for the post of Pradhan which was reserved for OBC category and the private respondent is still holding the post of Pradhan, which is a clear violation of the Constitutional Scheme of Reservation and statutory mandate, causing substantial prejudice to the petitioner and the community.
11. In support of his submission, Mr. Bhattacharyya has relied upon the judgment in the case of ***Biswajit Das Vs. State of West Bengal*** reported in ***2017 (5) CHN (CAL) 497*** and submits that when a person who is not a member of a Scheduled Castes/ Tribes obtains a false certificate with a view to gain undue advantage to which he is not otherwise entitled, that would amount to commission of fraud calling for immediate corrective action so as to prevent subversion of the constitutional purpose and no leniency can be shown.
12. Mr. Kartik Chandra Kapas, Learned Advocate representing the writ petitioner in WPA No. 20033 of 2025 (private respondent in WPA No. 21813 of 2025) submits that the private respondent obtained OBC Certificate on 1st June, 2013, issued by the Sub-Divisional Officer,

Tamluk on the basis of the recommendation of the Block Development Officer and the ex-Pradhan. He submits that in the year 2013 and 2018, the private respondent contested election from Iswarpur Gram Panchayat as an OBC candidate by the symbol of All India Trinamool Congress.

- 13.** Mr. Kapas submits that in the year 2023 also the private respondent contested the election to the post of Pradhan as an OBC candidate and the petitioner has also contested the said election and he has lost election from the private respondent, only to take revenge has initiated a false case against the private respondent.
- 14.** Mr. Kapas submits that the petitioner could not produce relevant documents to the Sub-Divisional Officer at the time of hearing as due to the cyclone, namely, Aila, the petitioner has lost her many valuable documents and secondly when she was travelling to Chandipur BDO Office, she has lost her bag containing original deeds, pass book and other valuable documents and the said matter was also reported to the concern police authority and G.D. Entry was also lodged by the police authority on 25th June, 2025.
- 15.** Mr. Kapas, during hearing of the case, has handed over the Memorandum issued by the Government of West Bengal dated 30th April, 2010 wherein the guidelines for issuance of OBC Certificates are provided and submits that the authority has issued OBC Certificate on the basis of the said guidelines but at the time of cancellation of the

OBC Certificate, the Sub-Divisional Officer has not considered the guidelines dated 30th April, 2010. In support of his submissions, he has relied upon the judgement in the case of ***Darvell Investment and Leasing (I) Pvt. Ltd. and Others Vs. State of West Bengal & Others*** reported in ***2015 (2) CHN (CAL) 674***.

16. Mr. Kapas submits that the Sub-Divisional Officer has no authority to cancel OBC Certificate and in support of his submissions, he has relied upon an unreported judgment in the case of ***Krishnapada Sardar and Another Vs. The State of West Bengal & Others*** in ***WPA No. 24655 (W) of 2018*** dated ***10th January, 2020*** wherein the Coordinate Bench of this Court held that it was *de hors* the jurisdiction of the Sub-Divisional Officer to cancel the certificate of the petitioner, within the purview of Section 9(1) of the 1994 Act.
17. Mr. Vivekananda Bose, Learned Advocate appearing for the State in WPA No. 21813 of 2025 submits that after the order passed by the Sub-Divisional Officer for cancellation of OBC Certificate of the private respondent, the private respondent has filed writ petition challenging the said order, thus the Sub-Divisional Officer has not taken any further steps.
18. Mr. Bose further submits that now, he has an information that the Sub-Divisional Officer has issued notice to the private respondent directing to submit the OBC Certificate in the Office of the Sub-Divisional Officer.

- 19.** Mr. Swapan Banerjee, Learned AGP appearing for the State in WPA No. 20033 of 2025 and submits that as per the order passed by this Court in the earlier round of litigation, the Sub-Divisional Officer has enquired into the matter after giving an opportunity of hearing to the petitioner as well as the private respondent but the private respondent failed to submit required documents to establish that the private respondent belongs to the OBC community.
- 20.** Mr. Banerjee submits that the Sub-Divisional Officer has cancelled the OBC Certificate of the private respondent and the private respondent has challenged the said order of cancellation in a writ proceeding but as per Section 7(G) of the West Bengal Scheduled Castes and Schedule Tribes (Identification) Rules, 1995, the impugned order is an appealable order, thus the Writ Petition No. 20033 of 2025 is not maintainable.
- 21.** By an order dated 15th January, 2025, the Coordinate Bench of this Court passed the following order:

“1. None represent the private respondent.

2. The petitioner challenges the Other Backward Classes certificate issued in favour of the private respondent. Specific submission of the petitioner is that the petitioner does not belong to the said category. A complaint was lodged by the petitioner before the Sub Divisional Officer which is yet to be disposed of.

3. Learned advocate representing the State relies upon a report forwarded by the SDO, Tamluk, Purba Medinipur signed on 2nd May, 2024 which mentions that the complaint of the petitioner was enquired. It was found that the original OBC-B certificate was issued in favour of the private respondent and the same was digitized.

4. *Relying upon such issuance, the authority opined the candidate belongs to the said category.*

5. *According to the petitioner, the enquiry was not conducted in the manner prescribed in the West Bengal SC and ST (Identification) Rules, 1995.*

6. *It appears from the report that has been placed in Court today that the authority only considered the genuineness of the certificate that was issued in favour of the private respondent. The contents of the said certificate and more particularly as to whether the candidate in whose favour the OBC certificate was issued actually belongs to the said category or not has not been enquired into.*

7. *The SDO is directed to conduct re-enquiry to ascertain the proper category of the private respondent upon giving an opportunity of hearing to the petitioner and the private respondent.*

8. *On conclusion of the enquiry fresh reasoned order shall be passed and communicated to the parties. If it appears that the allegation of the petitioner is proper, then necessary remedial measures shall be taken.*

9. *Steps shall be taken in the matter at the earliest but positively within a period of twelve weeks from the date of communication of this order.*

10. *The writ petition stands disposed of.”*

22. In compliance of the order passed by this Court dated 15th January, 2025, the Sub-Divisional Officer conducted an enquiry through Block Development Officer, Joint Block Development Officer and Inspector (BCW). The said officials after conducting enquiry, have submitted joint enquiry report which reads as follows:

“Enquiry Report

An enquiry was conducted regarding the OBC certificate of Khuku Rani Mondal Ghorai. D/o- Kushadhwaj Mondal of Vill- Batnan, P.O- Gopinathpur, P.S- Chandipur, Dist.- Purba Medinipur & presently residing at vill- Pichalda, P.O.- Asutiabarh, P.S.- Chandipur, Dist- Purba Medinipur on the basis of the direction of the SDO, Tamluk.

The concerned Khuku Rani Mondal Ghorai was primarily asked to submit her own OBC certificate bearing No.- WB1904OBC2013000358 dated -01/06/2013 and on verification it was found to be genuinely issued from the end of the SDO, Tamluk in the year 2013.

On being asked to provide any supporting documents on the basis of which the said OBC certificate was issued, Smt. Khuku Rani Mondal Ghorai could not provide any such documents.

She only Provided the document of her Family Tree & Legal heir documents of her father Lt. Kushadhwaj Mandal issued by Pradhan, Chowkhali Gram Panchayat.

As such, a field enquiry was conducted jointly by the BDO, Jt. BDO & Inspector BCW in Charge of Chandipur Dev. Block and it is found that people living in the locality mainly belongs to **Mahishya sub-caste** community. Her mother also belongs to Mahishya community before marriage. Various people in the area including her family member were questioned and from depositions, it appeared that the Clan (Gotra) of the certificate holder was **Sandilya** before marriage. In conversation with other kith & kin it is found that their birth, death, Marriage rituals & observation of religious festival are like Mahishya Sub-Caste. The main profession of the said area is hair processing and nothing substantiate could be affirmed regarding the profession of the ancestors of the said Khuku Rani Mondal Ghorai.

However, Smt Khuku Rani Mondal Ghorai had also given a written deposition in the form of an

affidavit in front of a 1" class Judicial Magistrate that their ancestors belonged to OBC caste.

In the absence of any specific documents that could establish her caste as OBC (Tanti, Tantubaya) and on the basis of their current profession, rituals, "gotra" the claim that the incumbent belongs to Other Backward Classes, could not be established. Hence, it appears to the undersigned that the incumbent does not belong to OBC.

Placed for kind necessary perusal of the Sub-Divisional Officer Tamruk & the appropriate Authority concerned.

<i>Inspector (BCW)- in-charge. Chandipur Dev Block, Purba Medinipur</i>	<i>Joint Block Development Officer Chandipur Dev Block, Purba Medinipur</i>	<i>Block Development Officer Chandipur Dev Block Purba Medinipur."</i>
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- 23.** On receipt of receipt of report, the Sub-Divisional Officer conducted hearing but during hearing also the private respondent failed to produce documents that she belongs to OBC community, accordingly, the Sub-Divisional Officer has passed an order on 23rd July, 2025 which reads as follows:

"After hearing all parties and perusal of the report submitted by the Block Development Officer, Chandipur, it is concluded that Khukurani Mondal Ghorai does not belong to the OBC community, sub-caste "Tanti, Tantubaya".

- 24.** The first issue raised by the private respondent that the Sub-Divisional Officer has not considered the guidelines for issuance of OBC Certificate and cancelled the OBC Certificate. As per guidelines, the

Scrutiny Committee and District Vigilance Cell shall exclusively deal with cases arising out of complaints in regard to impounding/ revocation of certificates. In the said guidelines, it is also clarified that the provisions and procedures as applicable for similar actions for SC and ST Certificates are applicable here *mutatis mutandis*.

- 25.** In the case of ***Darvell Investment (supra)***, the Hon'ble Division Bench of this Court held that:

“Let me examine the statutory provisions in West Bengal Act 4 of 2007 in that light.

Section 2(a) of the Act defines the ‘Committee’ as State Scrutiny Committee constituted under section 8A for verification of social status of a person in whose favour a caste certificate under section 5 is issued. Section 8A(2) provides that the Committee shall comprise of the Secretary of the Backward Classes Department as Chairperson, Commissioner, Directorate of Backward Classes Welfare or his authorised representative not below the rank of Deputy Director as Convenor and the Director, Cultural Research Institute, Backward Classes Welfare Department or his authorised representative as an Expert Member.

Sub-section (1) of section 8A empowers the said Committee to verify social status of a person in whose favour a certificate is issued under section 5 of the Act. Section 9(2) of the Act lays down that the Committee may upon due enquiry direct cancellation of a caste certificate procured upon false information, misrepresentation, suppression or forgery. Such provisions, however, are not exhaustive of the powers of the Committee. Sub-section (3) of section 8A provides for other powers of the said Committee too. Clause (c) of sub-section 8A(3) of the Act empowers the Committee to make an enquiry in connection with contravention of any provision of the said Act. Clause (e) thereof authorises the Committee to call for information from any person or authority for the purpose of satisfying itself whether there has been any

contravention of any provisions of the Act or any Rule or order made thereunder and clause (i) gives power to the Committee to do such thing or act which are not in consistent with the provision of the law for the proper conduct of its functions which may appear to the Committee to be necessary or expedient for the proper conduct of its function.

Powers vested in the Committee under clauses (c), (e) and (i) of section 8A(3) are couched in the widest terms. It empowers the Committee to enquire into contravention of any provision of the Act, to seek information from any person or authority in that regard and to perform such other thing or act which may be necessary or expedient for exercise of its functions which are not in consistent with the Act. There is no express embargo/prohibition in the Act disentitling the Committee from enquiring into illegal cancellation of caste certificate by Certificate Issuing Authority under section 9(1) of the Act. Nor is an order of cancellation issued under section 9(1) of the Act final unlike an appellate order of refusal of caste certificate under section 7(3) of the Act.

In view of the socio-legal background leading to constitution of the Committee to weed out cases of illegal and unjust deprivation of deserving members of the SC/ST community from their constitutional privileges, the high-powered composition of the Committee comprising of senior and experienced personnel and the wide and unfettered amplitude of the words employed in describing the powers of the Committee in sub-clauses(c), (e) and (i) of section 8A(3) of the Act one is persuaded to hold that such powers are independent and not ancillary or incidental to the power vested in the Committee under sub-section(1) of section 8A of the Act.

Hence, we are unable to accept the contention of the learned senior counsel of the appellants that the powers of the Committee enumerated in section 8A(3) of the Act are not substantive in nature but are ancillary and/or incidental to the powers of the Committee as provided in sub-section (1) of section

8A of the Act. The ratio in *Beedi Leaves* (supra) is therefore of no assistance to the appellants.

A conjoint reading of the aforesaid provisions would make it clear that the intention of the legislature was not to restrict the power of the State Scrutiny Committee merely to verify social status of persons in whose favour a certificate has been illegally issued under section 5. The Committee is empowered to look into all contraventions of any provisions of the Act. An illegal cancellation of a caste certificate issued under section 5 of the Act to a member of the SC/ST community without following the procedure laid down in section 9(1) read with Rule 3 of the State Rules (as alleged in this case) is undoubtedly a contravention of the provisions of the Act which would be amenable to the supervisory jurisdiction of the Committee under section 8A(3)(c)(e) & (i) of the Act.

It is trite law that social legislations are to be interpreted in a manner so that the benefits under the said law may be extended to the members of the socially backward community which it seeks to protect. Reference may be made to *Pandey Oraon v. Ram Chander Sahu*, 1992 Supp (2) SCC 77 where the Apex Court while interpreting beneficial provisions of Chhotanagpur Tenancy Act enacted to protect the property rights of Scheduled Caste community held as follows:

“7. The provision is beneficial and the legislative intention is to extend protection to a class of citizens who are not in a position to keep their property to themselves in the absence of protection. Therefore, when the legislature is extending special protection to the named category, the Court has to give a liberal construction to the protective mechanism which would work out the protection and enable the sphere of protection to be effective than limit by (sic) the scope.”

Act of 1994 is a social legislation to identify and acknowledge the status of members of the scheduled caste and scheduled tribe by issuing certificates under section 5 of the said Act so that

they may enjoy constitutional privileges reserved for them.

Unjust and/or unfair cancellation of such status by an authority without following the procedure laid down in the Act and the Rules framed thereunder would result in grave injustice to such member of the socially and educationally backward community.

State Scrutiny Committee is a high powered expert body comprising of the most experienced personnel who have the requisite expertise, experience and machinery at their disposal to make proper enquiry into the social status of an individual whose caste certificate has been illegally cancelled by the Certificate Issuing Authority in contravention of the procedure provided under the Act and the rules framed thereunder. To denude the Committee of such jurisdiction by merely referring to the definition clause in Section 2(a) or its powers under section 8A(1) of the Act would render the powers engrafted in clauses (c), (e) and (i) of section 8A(3) otiose and redundant. Such an interpretation would also militate against the real intention of the legislature and deprive a deserving member of the SC/ST community from ventilating his grievances under the statutory scheme against illegal cancellation of his caste certificate in contravention of the provisions of the Act before the high-powered expert body which is best suited to enquire into such contraventions. To hold otherwise would defeat both the letter and spirit of the law which seeks to create a plenary expert body to verify social status of individuals and ensure that the deserving members of SC/ST community are not deprived of their just constitutional privileges.

For the aforesaid reasons, it is opined that the Committee has jurisdiction to enquire into complaints of illegal cancellation of caste certificate by the Certificate Issuing Authority in contravention of the provisions of the Act under section 9(1) of the Act and undertake verification of the social status of the aggrieved person in connection therewith.

Accordingly, the appeal is dismissed and the judgement and order passed by the learned Single Judge is upheld.”

26. The Judgment of **Darvell Investment (supra)** was considered by the another Division Bench of this Court in the case of **Biswajit Das (supra)** wherein the Hon'ble Division Bench of this Court held that:

“20. We now move on to the point urged by Mr. Bhattacharya. Having perused the decisions by him, we are of the considered opinion that the view expressed by the coordinate Bench of this Court in Darvell Investment & Leasing (I) Pvt. Ltd. (supra) sounds the death-knell for the appellant. Having considered the provisions of the 1994 Act, more particularly sections 8A and 9, the Bench observed that an illegal cancellation of a caste certificate issued under section 5 of the 1994 Act to a member of the scheduled caste/scheduled tribe community without following the procedure laid down in section 9(1) read with Rule 3 of the 1995 Rules would undoubtedly be a contravention of the provisions of the 1994 Act, which would be amenable to the supervisory jurisdiction of the Committee under section 8A(3)(c), (e) and (i) of the 1994 Act. It was also held in paragraph 49 as follows:

“49. State Scrutiny Committee is a high powered expert body comprising of the most experienced personnel who have the requisite expertise, experience and machinery at their disposal to make proper enquiry into the social status of an individual whose caste certificate has been illegally cancelled by the Certificate Issuing Authority in contravention of the procedure provided under the Act and the rules framed thereunder. To denude the Committee of such jurisdiction by merely referring to the definition clause in section 2(a) or its powers under section 8A(1) of the Act would render the powers engrafted in clauses (c), (e) and (i) of section 8A(3) otiose and redundant. Such an interpretation would also militate against the real intention of the legislature and deprive a deserving member of the SC/ST community from ventilating his grievances under the statutory scheme against illegal cancellation of his caste certificate in contravention of the provisions of the Act before the high powered expert body

which is best suited to enquire into such contraventions. To hold otherwise would defeat both the letter and spirit of the law which seeks to create a plenary expert body to verify social status of individuals and ensure that the deserving members of SC/ST community are not deprived of their just constitutional privileges.”

21. *Having read the provisions of the 1994 Act, we find the absence of an appellate forum to which an appeal could be carried against an order cancelling a certificate under section 9(1) of the 1994 Act. We are inclined to the view that the coordinate Bench was mindful of such absence in the statute and had by judicial interpretation recognized the Committee to be a forum who would have supervisory jurisdiction in respect of orders passed by a certificate issuing authority cancelling certificates earlier issued, without observing the procedure prescribed by the 1994 Act and rules framed thereunder. We have also not found any observation in the said decision that a certificate issuing authority may not suo motu initiate proceedings for cancellation/ impounding/ revocation of a certificate if the circumstances so warrant or that a report of the Committee is a condition precedent for initiation of such proceeding.*

22. *Be that as it may, it is now time to note a decision of the Supreme Court cited by Mr. Bhattacharya on harmonious construction.*

23. *In Sultana Begum (supra), the Supreme Court in paragraph 15 captured the essence of all the decisions considered by it on harmonious construction by observing as follows:*

“15. On a conspectus of the case-law indicated above, the following principles are clearly discernible:

(1) It is the duty of the courts to avoid a head-on clash between two sections of the Act and to construe the provisions which appear to be in conflict with each other in such a manner as to harmonise them.

(2) *The provisions of one section of a statute cannot be used to defeat the other provisions unless the court, in spite of its efforts, finds it impossible to effect reconciliation between them.*

(3) *It has to be borne in mind by all the courts all the time that when there are two conflicting provisions in an Act, which cannot be reconciled with each other, they should be so interpreted that, if possible, effect should be given to both. This is the essence of the rule of 'harmonious construction'.*

(4) *The courts have also to keep in mind that an interpretation which reduces one of the provisions as a 'dead letter' or 'useless lumber' is not harmonious construction.*

(5) *To harmonise is not to destroy any statutory provision or to render it otiose."*

24. *We are also of the view, having read section 9 of the 1994 Act again and again, that a harmonious construction of sub-sections (1) and (2) would result in ironing out the creases. Our reading of section 9 read with Rule 3 of the West Bengal Scheduled Castes and Scheduled Tribes (Identification) Rules, 1995 (hereafter the 1995 Rules) is this. In terms of sub-section (1) of section 9 read with sub-rule (1) of rule 3, either on a complaint by any person or suo motu, the certificate issuing authority upon recording a prima facie satisfaction that a certificate under the 1994 Act has been obtained by any person by furnishing any false information or by misrepresenting any fact or by suppression of any material information or by producing any document which is an act of forgery, may start proceedings for cancellation, impounding or revocation of the certificate, as the case may be. Once the proceedings are commenced, the procedure prescribed in sub-rules (2) to (4) of rule 3 of the 1995 Rules shall be followed and the proceeding shall be taken to its logical conclusion by an order in writing and, thereafter, further steps as is provided for in sub-rules (5) and (6) are to be taken. The certificate issuing authority also has the power under sub-rule (7) to launch criminal prosecution. Reading of section 9(1) with rule 3 does not impose any obligation on the certificate issuing authority to*

obtain any report of the Committee. If at all the certificate issuing authority in its exercise of power to cancel, impound and/or revoke a certificate contravenes the provisions of section 9(1) read with rule 3(1), it would be open to the aggrieved party to invoke the supervisory jurisdiction of the Committee constituted under section 8A for redress.

25. *What section 9(2) provides is this. Since it starts with a non-obstante clause, nothing contained in section 9(1) would fetter the power of the Committee to cancel, impound or revoke a certificate which might have been issued to a person based on false information/ misrepresentation of fact/ suppression of material information/ production of a forged document. The intent of the legislation is that even if the certificate issuing authority does not initiate any proceeding under section 9(1), the Committee may, acting as the original authority, initiate proceedings for cancellation, impounding or revocation of a certificate that has been issued to a person based on such false information, misrepresentation, suppression, production of forged document.*

26. *Our reading of the decision of the coordinate Bench in Darvell Investment & Leasing (I) Pvt. Ltd. (supra) is that, a person whose caste certificate is cancelled could make the order of cancellation amenable to the supervisory jurisdiction of the Committee or challenge such action by approaching the writ court in an appropriate case.*

27. *Although the decision in Bikash Chandra Mahata (supra) lays down that the certificate issuing authority has no authority to cancel a scheduled caste certificate issued in favour of a person and such act is without jurisdiction, we find that such a finding has been returned based on the first Madhuri Patil decision (supra) without considering the effect of section 9(1) of the Act read with rule 3 of the 1995 Rules, as well as the interpretation of section 9(2) of the Act by the coordinate Bench in Darvell Investment & Leasing (I) Pvt. Ltd. (supra). We are not inclined to the view that the decision in Bikash Chandra*

Mahata (supra) lays down the law correctly and accordingly, we record our respectful disagreement therewith.

28. *The first and the second Madhuri Patil decisions (supra) have been perused. It appears that even before the first Madhuri Patil decision (supra), the 1994 Act was enacted in the State of West Bengal. Considering that the issue emanating for decision is covered by legislation, we hold that any observation made in the decisions in Madhuri Patil (supra) would only be of persuasive value.*

29. *Law is well-settled that when a person who is not a member of a scheduled caste/tribe obtains a false certificate with a view to gain undue advantage to which he is/was not otherwise entitled, that would amount to commission of fraud calling for immediate corrective action so as to prevent subversion of the constitutional purpose and no leniency can be shown.*

30. *Having heard our tentative views expressed in course of hearing and having realized that the decision in Darvell Investment & Leasing (I) Pvt. Ltd. (supra) by judicial interpretation of sections 8A and 9 of the 1994 Act has recognized a power of supervisory jurisdiction being vested in the Committee, Mr. Bhattacharya prayed that Biswajit may be permitted to raise his grievance before the Committee against the order of the SDO cancelling his certificate.*

31. *We are afraid, the prayer need not be allowed in view of the third point raised by Mr. Dutta to the effect that the certificate issuing authority had assigned appropriate reason for cancellation of the certificate issued in favour of Biswajit.”*

27. In the present case, the Sub-Divisional Officer in terms of the order passed by this Court initiated proceeding against the private respondent for enquiry of the OBC Certificate obtained by the private

respondent. The Sub-Divisional Officer before coming to conclusion that the private respondent does not belong to OBC category, has constituted a Committee. The private respondent has appeared before the Committee and has not raised any objection of constitution of Committee. The Committee has submitted report. The private respondent has also not challenged the said report either before the Sub-Divisional Officer or in the present writ application.

- 28.** The private respondent has taken a specific plea that some of the documents have been lost in cyclone and some of the documents has been lost during travelling but she has not given the description of the documents, which she was relying. As per guidelines, the applicants has to fulfill the following criteria:

a) The applicant must be a citizen of India.

b) He has to be a permanent resident of West Bengal since 15/3/1993.

c) He is an ordinary resident at the address currently residing.

d) He belongs to the said category he/she claims to belong to.

e) His identity.

f) The the applicant does not fall under 'creamy layer'."

- 29.** In the report of the Committee, it reveals that the private respondent has not given any specific documents that could be established her caste as OBC. In the report, it is also mentioned that the people residing in the locality of Chandipur Development Block are mainly

belongs to Mahishya sub-caste community and her mother also belongs to same community before her marriage. On enquiry from various people of that area including the family members of the private respondent, the Committee finds that their Clan (Gotra) was Sandilya before marriage.

- 30.** Now the respondent authorities have also issued a notice to the private respondent to submit her OBC Certificate in the Office of the Sub-Divisional Officer.
- 31.** This Court did not find any illegality in the order passed by the Sub-Divisional Officer dated 23rd July, 2025, holding that the private respondent does not belong to OBC community, sub-caste “Tanti, Tantubaya”.
- 32.** Once the Sub-Divisional Officer come to the conclusion that the private respondent does not belong to OBC community, the Sub-Divisional Officer ought to have passed an order of cancellation of the OBC Certificate of the private respondent but till date no action is being taken for cancellation of the OBC Certificate of private respondent.
- 33.** In view of the above, the Sub-Divisional Officer is directed to take appropriate immediate steps for cancellation of the OBC certificate of Smt. Khukurani Mondal Ghorai, the private respondent in WPA No. 21813 of 2025, within a period of one (1) week from the date of receipt of this order.

34. WPA No. 21813 of 2025 is allowed. WPA No. 20033 of 2025 is dismissed.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)