

24.01.2024
S/L No.1
Court No.8
(gc)

MAT 192 of 2024

**Backward Classes Welfare Department
Vs.
Itisha Soren & Ors.**

Mr. Kishore Datta, Ld. A.G.
Mr. Biswabrata Basu Mallick, A.G.P.
...for the State.
Mr. Biswarup Bhattacharyya
...for the Writ Petitioner/Respondents.

1. Mr. Advocate General has mentioned this matter immediately before the afternoon recess with an oral prayer for stay of C.B.I. investigation in respect of alleged fake caste certificates on the ground that the State was not allowed to rely on the bunch of the documents to show that the State has taken all reasonable steps towards a fair investigating with regard to the issuance of fake caste certificates.
2. Mr. Advocate General has submitted that the process for verification of the fake caste certificates had commenced much prior to the filing of the writ petition and the State had detected a large number of such certificates and had cancelled all on verification. It is submitted that F.I.Rs have been lodged against the erring

officials and departmental proceedings have also been initiated against them. The grievance of the Advocate General is that the State was not permitted to rely upon such documents to justify that there is no requirement to handover the documents to the C.B.I. Officer who was directed to be present at 2.30 p.m. today. It is further submitted by Mr. Advocate General that there is no prayer of C.B.I. investigation by the writ petitioners. Mr. Advocate General has also submitted that no opportunity has been given to the State to file affidavit disclosing documents and the steps taken by the State with regard to the complaints received in relation to the fake caste certificates.

3. If we take the submission of Mr. Advocate General to be correct and do not doubt the veracity of the statement made by Mr. Advocate General, we are of the view that unless there is a prayer in the writ petition for C.B.I. investigation or a case is made out for C.B.I. investigation, the right of the State to conduct fair and impartial investigation by its agencies cannot be lightly interfered with as it would result in disruption of the co-operative federal

structure of the country. Unless the autonomy of the State to investigate into the issue is decided against the State, no such direction could have been passed. Moreover, the State wanted to demonstrate the steps taken by the State with regard to the complaints received by the State regarding issuance of fake caste certificates and the said investigation is still continuing. A bunch of documents appears to have been filed before the learned Single Judge is placed before this Court. We feel that those documents should be allowed to have been filed by way of an affidavit and thereafter whether there is any requirement of any C.B.I. enquiry notwithstanding any prayer is made in the writ petition is to be assessed. There is no pleading in the writ petition for a C.B.I. enquiry. The Court cannot travel beyond the pleadings.

4. We have been informed that the order is not available in the server.
5. Considering the submission made by the learned Advocate General, the impugned order passed today in the afternoon with regard to the handing over of documents by the State to the C.B.I. or any direction

upon the said agency as may be directed in the impugned order shall remain stayed for two weeks subject to an undertaking given by the Advocate General for the State of West Bengal to file a memorandum of appeal and the stay petition with or without the certified copy or server copy, if not available by reproducing correct summary of the order, to be filed by 4.30 p.m. today.

6. The matter shall be listed tomorrow, i.e. **25th January, 2024.**
7. The photocopy of the papers placed before us after perusal is returned to the learned Advocate General.
8. In view of the aforesaid order, the learned Registrar General is not required to send an information to the Central Bureau of Investigation for presence of an Officer in the Court at 2.30 p.m.

(Uday Kumar, J.)

(Soumen Sen, J.)