

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA,
MANIPUR, TRIPURA, MIZORAM AND ARUNACHAL PRADESH)

ITANAGAR BENCH

WRIT PETITION (C) NO. 177 (AP) 2008

Smti Geeta Apang,
D/o Shri M. Singh,
Resident of Junai,
District : Dhemaji,
Assam

..... Petitioner

-Versus-

- 1. *The State of Arunachal Pradesh***
represented by the Secretary,
to the Govt. of Arunachal Pradesh,
(General Administration), Itanagar
- 2. *The Deputy Commissioner,***
Upper Siang District, Yingkiong,
Arunachal Pradesh.
- 3. *The Deputy Commissioner,***
East Siang District, Pasighat,
Arunachal Pradesh.

..... Respondents

B E F O R E

THE HON'BLE MR. JUSTICE K. MERUNO

For the Petitioner : ***Mr. T. Michi,***
 Mr. R. Sonar
 Mr. H. Tangu
 Mr. D. Lazi
 Ms. H. Laxmi

For the Respondents : Mr. R.H. Nabam, Sr. GA

Date of hearing & Judgment : 25.04.2008
and Order

THIS WRIT PETITION HAVING BEEN HEARD ON 25TH DAY OF
APRIL 2008, THE COURT PASSED THE FOLLOWING:

JUDGMENT AND ORDER (ORAL)

Heard Mr. T. Michi, learned counsel for the petitioner and also heard Mr. R.H. Nabam, learned Senior Government Advocate appearing on behalf of the Respondents.

2. The case of the petitioner is that the petitioner was issued a Schedule Tribe (ST) Certificate vide Memo No. YKJ-414/999 dated 03.02.1992 by the competent authority after observing all codal formalities for granting of the same. But however to the great shock and surprise to the petitioner, the Respondent No. 2/ Deputy Commissioner, Upper Siang District, Yingkiong has cancelled the said Schedule Tribe (ST) Certificate granted to the petitioner vide Office Memo Misc. Case No. 1/06 dated 22.02.2008 without having authority of law and territorial jurisdiction. Hence, being aggrieved by the illegal action of the Respondent No. 2 i.e. the Deputy Commissioner, Upper Siang District, Arunachal Pradesh, the petitioner has preferred this writ petition challenging the legality and propriety of the said impugned order dated 22.02.2008.

3. The petitioner states that one, Shri Anong Apang with whom the petitioner was married had applied for grant of a Schedule Tribe (ST) Certificate in favour of the petitioner on the status of her marriage with Shri Anong Apang, who is a member of **Arunachal Pradesh Schedule Tribe (APST)** and on the basis of which, the said Schedule Tribe Certificate was granted to her.

4. Pursuant to the judgment and order dated 14.06.2005 passed in WP(C) 130 (AP)2004, the petitioner was served with a show-cause notice and upon showing cause, the Respondent No. 2/Deputy Commissioner, Upper Siang District, Yingkiong passed the

impugned order dated 22.02.2008 whereby the **Schedule Tribe Certificate** granted to the petitioner vide Memo No. YKJ-414/999 dated 03.02.1992 has been cancelled.

5. After hearing the learned counsel appearing for the parties and upon perusal of the impugned order dated 22.02.2008, I am in total agreement with what has been stated in Para-4 of the said impugned order dated 22.02.2008, wherein it has held that **“Birth” alone is the touch-stone to decide tribe and any person who is not Schedule Tribe by birth will not be deemed to be a member of Schedule Tribe by virtue of marriage with a member of the Schedule Tribe.**

6. The law on this particular point has also been held by this Court in a decision rendered in **the case of State of Tripura Vs. Namita Majumdar as reported in 1998 (4) GLT(SC)1.** Relying upon the decision of the Case as reported in **1996 (3) SCC 545 [Valsamma Paul (Mrs.) Vs. Cochin University & Ors.]**, which was followed and held that a person by religion of his or her marriage to a person belonging to a Schedule Caste is not entitled to get the benefit of Schedule Caste.

7. In the present case in hand, it is not pertaining to Schedule Caste but pertaining to Schedule Tribe and in my considered view, the same principle as laid down in the aforesaid Cases will also be applicable in the Case of Schedule Tribe, which is the subject matter in the present Case before hand. Therefore, a person by religion of his or her marriage to a person belonging to the Schedule Tribe is not entitled to get the benefit of the Schedule Tribe, which has also been clearly spelt out in the impugned order dated 22.03.2008 that the petitioner being a Manipuri by birth is not entitled to the Schedule Tribe status of Arunachal Pradesh by virtue of her marriage with one,

Shri Anong Apang, who is a Schedule Tribe member of Arunachal Pradesh.

8. The further contention regarding the competency of the Respondent No. 2 in passing the impugned order dated 22.02.2008 without having authority of law and territorial jurisdiction cannot be accepted. In view of the fact that by birth, the petitioner is not a member of the Schedule Tribe but on her marriage to a person belonging to a Schedule Tribe does not have a right to belong to a member of the Schedule Tribe and therefore, the fact remains that under no circumstances, the *petitioner can be treated as a member belonging to a schedule Tribe of Arunachal Pradesh by virtue of her marriage to a person belonging to a member of the Schedule Tribe of Arunachal Pradesh.*

The allegation of the petitioner that the Deputy Commissionr, Upper Siang District, Yingkiong without having authority of law and territorial jurisdiction in passing the impugned order dated 22.02.2008 is also not sustainable in law in view of the fact that the impugned order dated 22.02.2008 was passed by the Respondent No. 2 after duly serving the show cause notice dated 30.08.2005 issued by Deputy Commissioner, Yingkiong and the show cause reply of the petitioner dated 26.09.2005.

9. In this view of the matter, I do not find any merit in this writ petition and accordingly, the same stands rejected and dismissed. However, there shall be no order as to cost.

JUDGE