

GAHC010206592023

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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/5340/2023

CHAINI BHUYAN
D/O- SRI BIBEK BHUYAN,
R/O- VILLAGE- BAMUNGAON,
P.O.- CHAKOLAGHAT, P.S.- JAJORI,
DISTRICT- NAGAON, ASSAM.

VERSUS

THE STATE OF ASSAM AND 8 ORS
THROUGH-
THE ADDITIONAL CHIEF SECRETARY,
TO THE GOVERNMENT OF ASSAM,
DISPUR, GUWAHATI- 781006.

2:THE SECRETARY
WELFARE OF PLAIN TRIBES AND BACKWARD CASTE DEPARTMENT
GOVT. OF ASSAM
DISPUR
GUWAHATI- 781006.

3:THE STATE LEVEL CASTE SCRUTINY COMMITTEE
REPRESENTED BY ITS CHAIRMAN CUM SECRETARY

WELFARE OF PLAIN TRIBES AND BACKWARD CASTE DEPARTMENT

GOVERNMENT OF ASSAM

DISPUR
GUWAHATI- 781006.

4:THE DIRECTOR OF MEDICAL EDUCATION
OFFICE OF THE MEDICAL EDUCATION
ASSAM

SIX MILE
KHANAPARA
GUWAHATI- 781022.

5:THE DIRECTOR
TEA TRIBES WELFARE
ASSAM
RUPNAGAR
GUWAHATI- 781032.

6:THE DISTRICT COMMISSIONER
NAGAON
P.O. AND DISTRICT- NAGAON
ASSAM

PIN- 782001.

7:THE ADDITIONAL DISTRICT COMMISSIONER
NAGAON
P.O. AND DISTRICT- NAGAON
ASSAM

PIN- 782001.

8:THE PRINCIPAL
ASSAM MEDICAL COLLEGE AND HOSPITAL
DIBRUGARH
P.O. AND DISTRICT- DIBRUGARH

ASSAM
PIN- 782001.

9:THE ASSAM TEA TRIBES STUDENTS ASSOCIATION (CENTRAL
COMMITTEE)
REPRESENTED BY ITS GENERAL SECRETARY
JAGDISH BARIK

ASSAM TEA TRIBE COLLEGE STUDENTS HOSTEL

GANESHGURI CHARIALI
GUWAHATI- 781006

Advocate for the Petitioner : MR. R MAJUMDAR

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

ORDER

Date : 19.09.2023

Heard Mr. R Majumdar, learned counsel for the petitioner. Also heard Mr. D Nath, learned Senior Government Advocate assisted by Mr. P Saikia, learned counsel for the Government of Assam, Mr. B Gogoi, learned counsel for the Medical Education Department of Government of Assam and Mr. RM Das, learned counsel for the Social Justice and Empowerment Department of Government of Assam.

2. We have also the benefit of the presence of the Director of Welfare of Tea and Ex Tea Garden Community.

3. The petitioner Chaini Bhuyan is claiming a seat in the MBBS 1st Year course for the year 2023 under the reserved quota of Tea Garden Labourer/Ex Tea Garden Labourer which is also categorized to be an Other Backward Class community under the Notification No.12011/68/93-BBC(C) dated 10.09.1993. For the purpose, the petitioner relies upon a caste certificate dated 27.06.2023 issued under the digital signature of Dhiman Hazarika. The certificate does not mention as to who Dhiman Hazarika is, although the certificate is issued from the office of the Deputy Commissioner, Nagaon. It is certified that Chaini Bhuyan who is the daughter of Bibek Bhuyan of village Bamun Gaon Post Office

Chakalaghat Police Station Jajori in the Nagaon district, belongs to the Bhuyan (Tea Garden Labourers/Tea Garden Tribes/Ex-Tea Garden Labourers/Ex-Tea Garden Tribes) caste/community, which is recognized as Other Backward Class/More Other Backward Class by the Government of Assam.

4. It is stated that the certificate is based on another certificate dated 30.08.2023 which is issued by the President of Assam Chah Mazdoor Sangha certifying that Chaini Bhuyan daughter of Bibek Bhuyan of village Bamungaon of Hatichung Mouza in the district Nagaon belongs to the Bhuyan Community by birth and 'are' working in different tea gardens of Assam for their livelihood and accordingly the persons mentioned belong to Tea Tribe Community.

5. It is again a travesty that the certificate issued by the Office of the Deputy Commissioner which is stated to be on the basis of the certificate by the Assam Chah Mazdoor Sangha is dated 27.06.2023 but the certificate of the Assam Chah Mazdoor Sangha is subsequent i.e. 30.08.2023, meaning thereby that when the Deputy Commissioners' Office had issued the certificate, the certificate of the Assam Chah Mazdoor Sangha was not on record.

6. An admission order dated 13.09.2023 of the Director of Medical Education, Assam is placed before us which provides that pursuant to a verification report received from the Director of Tea Tribes and Adivasi Welfare Assam dated 13.09.2023 the writ petitioner Chaini Bhuyan whose admission into the MBBS course in the Assam Medical College under the Tea Garden Labourer/Ex-Tea Garden Labourer (NCL) [in short, TGL/Ex-TGL (NCL)] category for the session

2023 was kept withheld, is allowed to be provisionally admitted, subject to outcome of the final decision in WP(C) No. 3868 of 2023.

7. We have been told by Mr. B Gogoi, learned counsel for the Medical Education Department that the subject matter of WP(C) No. 3868 of 2023 and the subject matter involved in the present writ petition are totally unconnected except that pursuant to any order that may be passed in WP(C) No. 3868 of 2023, the list of admitted candidates may be required to be re-casted in some manner, but the fact of acceptance of the candidature of the petitioner Chaini Bhuyan under the reserved category of TGL/Ex-TGL (NCL) has been finally accepted.

8. For the purpose, to justify that the petitioner Chaini Bhuyan belongs to the Bhuyan TGL/Ex-TGL (NCL) community, reliance is also placed on a certificate dated 24.08.2023 of the Secretary of the Assam Chah Mazdoor Sangha, Borsola Branch at Dhekiajuli wherein it is certified that Lalit Chandra Bhuyan son of Siva Bhuyan of Nurbari Tea Estate had been working as a 'tea garden worker' during the time period 1965 to 1979. Lalit Chandra Bhuyan is claimed to be the father of Bibek Bhuyan, who again is the father of the writ petitioner Chaini Bhuyan as per the caste certificate dated 27.06.2023. In other words, Chaini Bhuyan claims the lineage of being the descendant of a tea garden labourer through Lalit Chandra Bhuyan.

9. In the circumstance, we required the Deputy Commissioner Sonitpur to cause an enquiry through the Circle Officer having jurisdiction over Nurbari Tea

Estate as to whether Lalit Chandra Bhuyan was a tea garden labourer in the said tea estate.

10. A report dated 19.09.2023 has been submitted by the Circle Officer of Tezpur Revenue Circle that as per the Management of Nurbari Tea Estate, there is no record available that Lalit Chandra Bhuyan ever worked as a tea garden labourer in the Nurbari Tea Estate and also that as per the certificate of the Gaon Burah of Nurbari village, there is no material available that Lalit Chandra Bhuyan was ever a resident of village Nurbari. The Management of Nurbari Tea Estate also informed the Circle Officer that the Nurbari Tea Estate is not under the jurisdictional control of the Chah Mazdoor Sangha at Borsola who had issued the certificate dated 30.08.2023 available at page-28 of the writ petition.

11. A copy of the report of the Circle Officer dated 19.09.2023 along with the letter of the Management of Nurbari Tea Estate as well as the certificate of the Gaon Burah is kept on record.

12. Mr. D Nath, learned Senior Government Advocate for the Government of Assam has produced before the Court the Notification dated 29.03.2022 of the Principal Secretary to the Government of Assam in the WPT and BC Department which authorizes the President and General Secretary of Central Committee and the District Committees of Chah Janajati Jatiya Sanmilani, Asom to issue a certificate in the name of the original tribe/sub tribe/ caste/sub caste of that applicant and not as a member of the TGL/Ex-TGL community which is to be countersigned by the respective Deputy Commissioners/Sub-Divisional Officers.

An Office Memorandum dated 06.08.2022 is also produced before the Court which lays down the guidelines on the standard procedures for issuing a certificate, amongst others, the Other Backward Classes/More Other Backward Classes certificate. As per Clause 7 of the said Office Memorandum dated 06.08.2022, applications received by the Deputy Commissioner, where the applicant is a resident, shall be scrutinized in detail and when the caste certificate of the father of the applicant is found to be genuine and bonafide, the Deputy Commissioner concerned may issue the caste certificate to such applicant provided that authorized caste organization do not submit any written objection within three days of such receipt. In case any doubt arises on the authenticity of the caste certificate, the Deputy Commissioner shall cause an enquiry of the caste certificate through the above authorized caste organizations or the Circle Officer, to ascertain the caste status of the applicant.

13. A reading of the procedure prescribed in the Office Memorandum dated 06.06.2022 makes it discernible that an application for issuing a certificate including the OBC certificate pertaining to the TGL/Ex-TGL would be received by the Deputy Commissioner and the Deputy Commissioner shall scrutinize the detailed particulars presented in the said application. The Deputy Commissioner shall issue the certificate, if the caste certificate of the father of the applicant is found to be genuine and *bona fide* and if the authorized caste organisation does not submit any written objections.

14. A reading of the aforesaid procedure itself makes it discernible that the applications are issued on a default, upon any objection being not raised by any person, meaning thereby that *dehors* any objection the applications are issued

on being asked by an applicant and a detailed enquiry is conducted only upon an objection being raised by any of the authorized caste organizations.

15. The guidelines further provide that in case any doubt arises on the authenticity of the caste certificate, the Deputy Commissioner shall cause an enquiry of the caste through the authorized caste organisation or Circle Officer for ascertaining the caste status of the applicant. In other words, in the event of any doubt having arisen in the mind of the Deputy Commissioner, the enquiry would be again based upon the appropriate caste organisation or the Circle Officer, meaning thereby that the views that they may be expressed by the appropriate caste organization or the Circle Officer would be final on the matter. We also have to understand that the entitlement of a person for reservation under the TGL/Ex-TGL category by following the said procedure would be based on any report that may be submitted by the caste organisations, which in the present case is given to be understood to be the Assam Chah Mazdoor Sangha or the Chah Janajati Jatiya Sanmilani, Assam, which is claimed to be an apex body of the tea tribes.

16. From such point of view, the certificate that the writ petitioner Chaini Bhuyan relies upon would have to be accepted to be an authentic certificate *inasmuch as*, it is issued from the office of the Deputy Commissioner, Nagaon and it is supported by some further certificate by the Assam Chah Mazdoor Sangha.

17. But when we look at the provisions of the Notification No.12011/68/93-

BBC(C) dated 10.09.1993 of the Ministry of the Social Welfare, Government of India as published in the Gazette of India dated 13.09.1993, providing for the common list of the communities to be included in the State of Assam as OBC, entry 24 provides for Tea Garden Labourer/ Tea Garden Tribes/Ex-Tea Garden Labourer/Ex-Tea Garden Tribes. A reading of entry 24 makes it discernable that the entry in favour of Tea Garden Labourer/ Tea Garden Tribes/Ex-Tea Garden Labourer/Ex-Tea Garden Tribes is circumscribed by the expression 'as listed below', and thereupon a list of 96 communities are provided in the list.

18. A bare reading of entry 24 of the Notification No.12011/68/93-BBC(C) dated 10.09.1993 makes it apparent and explicit that it is the Tea Garden Labourer/ Tea Garden Tribes/Ex-Tea Garden Labourer/Ex-Tea Garden Tribes who are recognized as an OBC in the State of Assam. As a Tea Garden Labourer/ Tea Garden Tribes/Ex-Tea Garden Labourer/Ex-Tea Garden Tribes may also belong to a given named community, entry 24 also provides a list of 96 enlisted communities meaning thereby that apart from belonging to Tea Garden Labourer/ Tea Garden Tribes/Ex-Tea Garden Labourer/Ex-Tea Garden Tribes, a given person would also have to satisfy that he belongs to any of the 96 enlisted communities in order to be recognized as an OBC in the State of Assam.

19. As the Notification No.12011/68/93-BBC(C) dated 10.09.1993 is issued by the Ministry of Social Welfare, Government of India, we also had the views of the learned Deputy Solicitor General of India representing the Social Welfare, Government of India as to the meaning and interpretation of entry 24. Mr. RKD Choudhury, learned Dy.S.G.I. after examining the Notification No.12011/68/93-

BBC(C) dated 10.09.1993 and also upon having appropriate instructions from the authorities, has submitted that in order to be included under entry 24 as an OBC in the State of Assam the person concerned would first have to establish at the first instance with necessary documents and materials that he belongs to the category of Tea Garden Labourer/ Tea Garden Tribes/Ex-Tea Garden Labourer/Ex-Tea Garden Tribes and thereupon, to establish with necessary documents and materials that he belongs to any of the 96 enlisted communities. It is the categorical submission of Mr. RKD Choudhury, learned Dy.S.G.I. that if a person merely establishes that he belongs to any of the 96 enlisted communities, without establishing that he also belongs to the category of Tea Garden Labourer/ Tea Garden Tribes/Ex-Tea Garden Labourer/Ex-Tea Garden Tribes, such person would not be accepted to be an OBC in the State of Assam under entry 24.

20. Mr. D Nath, learned Senior Government Advocate for the respondents in the Government of Assam is also of the same view that in order to avail the benefits of reservation under the category of Tea Garden Labourer/ Tea Garden Tribes/Ex-Tea Garden Labourer/Ex-Tea Garden Tribes, a person at the first instance would have to establish with necessary documents and materials that he belongs to the category of Tea Garden Labourer/ Tea Garden Tribes/Ex-Tea Garden Labourer/Ex-Tea Garden Tribes and thereupon, also establish that he belongs to any of the 96 enlisted communities. Without establishing at the first instance that the person belongs to the category of Tea Garden Labourer/ Tea Garden Tribes/Ex-Tea Garden Labourer/Ex-Tea Garden Tribes, a person merely by establishing that he belongs to any of the enlisted 96 communities would not be entitled to the benefits of reservation as a Tea Garden Labourer/ Tea Garden Tribes/Ex-Tea Garden Labourer/Ex-Tea Garden Tribes.

21. In this respect, we also requested Mr. UK Nair, learned Senior Counsel as an Amicus Curiae for his interpretation of entry 24 of the Notification No.12011/68/93-BBC(C) dated 10.09.1993. Mr. UK Nair, learned Senior Counsel upon examining the provision of entry 24 is also of the view that in order to avail the benefit of reservation as an OBC under entry 24, a person would first have to establish that he belongs to the category of Tea Garden Labourer/ Tea Garden Tribes/Ex-Tea Garden Labourer/Ex-Tea Garden Tribes and only thereupon, to also establish that he belongs to any of the 96 enlisted communities. It is also the submission of Mr. UK Nair, learned Senior Counsel that merely by establishing that the person belongs to any of the 96 enlisted communities, but without establishing that he also belongs to Tea Garden Labourer/ Tea Garden Tribes/Ex-Tea Garden Labourer/Ex-Tea Garden Tribes, a person would not be entitled to the benefits of reservation as an OBC in the State of Assam under entry 24 of the Notification No.12011/68/93-BBC(C) dated 10.09.1993.

22. To understand the meaning of the expression Tea Garden Labourer/ Tea Garden Tribes/Ex-Tea Garden Labourer/Ex-Tea Garden Tribes as appearing in the Notification No.12011/68/93-BBC(C) dated 10.09.1993, we refer to certain published research papers on the concept of Tea Tribes of Assam. One research paper made available to the Court by the Law Research Institute of the Gauhati High Court is a research paper by Dr. Pallabika Sarma, Assistant Professor, Department of Assamese, B Barooah College, Guwahati, which is as extracted:

Abstract: Migration is a habitual phenomenon in human society. It has

immense contribution in the formation & the development of human society. Tea plants were discovered in Assam in 1823. Later on, the British started tea cultivation in Assam for which large number of workers were needed. But the unwillingness of Assamese people towards tea cultivation led the British to take various programmes to make tea an economic crop. British started importing workers from other parts of India to Assam. With time migrated tea workers establish themselves in Assam permanently and they play a vital role in the formation of greater Assamese society. Social life of the tea tribes are enriched with folk songs, folk dances, folk tales, folk beliefs, traditional customs, festivals etc. Down the ages, tea tribes got settled in Assam, assimilated with the Assamese society and contributes a lot of elements to the greater Assamese culture enriching it.

This paper attempts to analyse the history of migration of tea tribes into Assam, their culture, spoken language & the process of assimilation to the Assamese society.

23. Another research paper made available by the Law Research Institute of Gauhati High Court is from the Journal of Scheduled Caste and Scheduled Tribes Research and Training Institute Bhubaneswar on the subject 'Tea Tribes of Assam: In the quest of their identity and entitlement', which is as extracted:

More than a century and half ago menial labour from the eastern regions of India (presently the states like Odisha, Jharkhand, West Bengal, parts of Andhra Pradesh and Chhattisgarh), were brought to work in the tea gardens of Assam during the colonial period, as long community were averse to work as labour in the tea gardens, through labour contractors by giving false promises of getting better quality of life (Baruah, 2008). They mostly belonged to from different indigenous communities (Adivasi Communities- known as Scheduled Tribes in the post independence period) and other marginalized communities like Dalits (known as Scheduled Castes in the post-independence period) and others (Non-scheduled communities, who are classified now as other backward classes).

24. A reading of the afore-extracted provisions from the research papers makes it discernible that the origin of the Tea Tribes in Assam goes back to the

British Colonial Era during which people mainly belonging to the Adivashi communities in the States of Odisha, Jharkhand, West Bengal, Andhra Pradesh and Chhattisgarh were brought into the State of Assam for the purpose of doing menial work as labourers in the tea gardens of Assam. Going by the above provision, the expression 'Tea Garden Labourer/ Tea Garden Tribes/Ex-Tea Garden Labourer/Ex-Tea Garden Tribes' as appearing in the Notification No.12011/68/93-BBC(C) dated 10.09.1993 would have to be understood to be such persons who were originally inhabitants of some other States and were brought to the State of Assam during the British Colonial Era for the sole purpose of working as labourers in the tea gardens in the State of Assam and that they may be anthropologically belonging to different tribes or communities which were also included the Adivashi communities, as were available in such states from where they were brought from.

25. Reference is also made to a communication from the Chairman of the East Karbi Anglong District Committee of Chah Janajati Jatiya Sanmilani, Asom wherein it is stated that surnames like Sahu, Kurmi, Gowala, Koiri, Gour etc., are found in TGL/Ex-TGL communities as well as in non-TGL/Ex-TGL communities, meaning thereby that as per the version of the Chairman of the East Karbi Anglong District Committee of the Chah Janajati Jatiya Sanmilani, Asom, a mere similar surname will not be conclusive that the person concerned belongs to the TGL/Ex-TGL community.

26. In the aforesaid circumstance, when we look into the communication dated 05.09.2023, from the Additional Deputy Commissioner of Nagaon made to the Director of Tea Tribes and Adivasi Welfare Assam, it is noticed that the

Additional Deputy Commissioner relied upon a report dated 22.08.2023 of the Circle Officer that the candidate referred therein belongs to the OBC category with sub-caste Kumar and that the certificate that was issued was found to be correct. The communication also provided that the Nagaon District Committee of Chah Janajati Jatiya Sanmilani, Assam, had also reported by a letter dated 02.09.2023 that the candidate does not belong to the TGL/Ex-TGL community.

27. On the other hand, in the instant case of the petitioner Chaini Bhuyan, a strict reliance is placed on a caste certificate dated 27.06.2023 issued by the Deputy Commissioner Nagaon as well as on the certificate dated 30.08.2023 issued by the Assam Chah Mazdoor Sangha and also a certificate dated 24.08.2023 of the Assam Chah Mazdoor Sangha Borsola Branch Dhekiajuli. In other words, if we rely upon the genuineness of the certificate that may have been issued and relied upon by the applicant Chaini Bhuyan, all such certificates would have to be accepted to be genuine certificates as there is no such allegation that any of the certificates were not actually issued by the authorities by whom it were shown to have been issued.

28. But the matter of concern is that in order to belong to the TGL/Ex-TGL category, it also has to be established that predecessors/forefathers of the applicant concerned necessarily would also to have served as a labourer in any of the tea gardens in Assam. Such determination that the predecessors/forefathers had served as a labourer in any of the tea gardens in Assam cannot be given finality merely upon a certificate being issued by the Assam Chah Mazdoor Sangha or on a report of the Circle Officer as the case may be or on the basis of any other certificate by any other authority, unless the

contents of such certificates are also established to be factually correct. The core determination that would have to be made is as to whether any of the predecessors/forefathers of the applicant were/was a labourer in any of the tea gardens that existed in the State of Assam for a considerable period of time in order to be called a tea garden labourer/ex tea garden labourer, which again would also have to be a contra-distinction of being a worker in a tea garden in any other capacity other than a labourer.

29. The requirement of a factual determination as to whether any of the predecessors/forefathers of the applicant were/was working as a tea garden labourer would necessarily involve the requirement of making factual verification as to who were/was the predecessors/forefathers and in which tea garden and for which period the person concerned had worked as a tea garden labourer. Such information can only be obtained from the tea garden concerned where the person had claimed to have worked and not on the basis of any certificate issued by one authority or the other without any factual determination.

30. In this respect we have to refer to the concept as to what is a certificate. A certificate is a document by which the author of the certificate certifies on the existence of a fact which may either be on the basis of a personal knowledge or on the basis of any public record or any other record. A mere issuance of a certificate does not create the existence of a fact as may be depicted in the certificate, unless there is a proper verification that the facts so depicted actually did exist. In other words, in the instant case, the fact to be determined is as to who would be the predecessors/forefathers and in which tea garden and in which period the person concerned had worked as a tea garden labourer.

31. It has been informed by Mr. B Gogoi, learned counsel for the respondents in the Medical Education Department that invariably in respect of all such applicants claiming medical seat under the category of TGL/EX-TGL under entry 24 of the Notification No.12011/68/93-BBC(C) dated 10.09.1993 the sole reliance is upon the certificate issued by the respective Deputy Commissioners which also bears the signature of the caste organizations and later on, at the request of the Medical Education Authorities verified by the Director of Welfare of Tea and Ex-Tea Garden Labourer. All such certificates were apparently issued by the authorities under whose signatures they were issued, but the basis of issuing the certificate are only reports verifying that the applicant belongs to any of the 96 enlisted communities.

32. Accordingly, it has to be understood that in the procedure adopted in issuing all such certificates relied upon by the applicants to claim a reserved MBBS first year seat under the TGL/Ex-TGL category under entry 24 of the Notification No.12011/68/93-BBC(C) dated 10.09.1993, the only determination made is whether the candidate belongs to any of the 96 enlisted communities, without there being a factual determination as to whether, at the first instance, the applicants belong to the TGL/Ex-TGL category, i.e. whether any of the predecessors/forefathers of the applicant did serve as a labourer in any of the tea gardens in Assam.

33. From such point of view, we refer the matter to the State Level Caste Scrutiny Committee to give an opportunity to all such applicants who are

claiming 1st year MBBS seats in the Medical Colleges in Assam on the basis of the reserved quota for TGL/Ex-TGL category by allowing them to bring in any empirical evidence on record which may show as to who may be their predecessors/forefathers who may have worked in the tea gardens in Assam, in which tea garden the person concerned had worked and for which period he worked. In other words, empirical material would not only have to be produced as to in which tea garden in Assam the person concerned may have worked as a tea garden labourer but also that the person claimed is actually the predecessor/forefather of the applicant. For the purpose, the Committee may use their own internal mechanism to determine the factual aspect as to which predecessor/forefather had worked in which tea garden and for which period, or the Committee may take the help of the respective Deputy Commissioners who shall use all the resources under their disposal to make a true factual verification as to whether the person claimed is or was a tea garden labourer in the tea gardens of Assam as claimed. For the purpose a direction is also issued to the Management/Owner of the respective Tea Gardens in respect of whom a claim is made that the person concerned is/was a labourer in that tea garden, to cooperate with the authorities with full materials as per their records so as to determine whether the person concerned was actually a tea garden labourer at any given point of time in that garden.

34. We take note that the last date of admission to the medical course is 30.09.2023 and therefore there is an extreme urgency in respect of the applicants seeking admission in the Medical Colleges of Assam under the TGL/Ex-TGL category. Accordingly, a direction is issued to the State Level Caste Scrutiny Committee through the Principal Secretary to the Government of Assam

in the Social Justice and Empowerment Department to make the Committee functional forthwith and to complete the verification at the earliest by giving complete preferential treatment to the issue.

35. The authorities in the Medical Education Department is also directed to place all such certificates by the various applicants who claimed a seat under the TGL/Ex-TGL category for verification of the aforesaid Committee by giving immediate intimation to the respective candidates to make themselves available before the State Level Caste Scrutiny Committee for aforesaid verification, if necessary by giving immediate communication at the Email IDs of the respective candidates, including their mobile numbers and all other means as may be available.

36. The State Level Caste Scrutiny Committee is directed to give individual report on the various applicants on or before 26.09.2023 so that the resultant necessary action regarding the admission to the medical colleges can be completed by the authorities in the Medical Education Department within 30.09.2023.

37. It is made clear that only those candidates who are found by the Committee as to whose predecessors/forefathers can be accepted to be a tea garden labourer in any of the tea gardens in Assam shall only be offered seats and admitted to the 1st Year MBBS Course 2023 under the reserved category of TGL/Ex-TGL category. The Committee is also requested that whenever the verification of an applicant is completed, the report be immediately transmitted

to the Director of Medical Education so that the needful can be done at the earliest.

38. Mr. RM Das, learned counsel for the Social Justice and Empowerment Department takes note of the order and assures the Court that the needful would be done in the required manner within the stipulated period of time. The aforesaid exercise is of utmost importance inasmuch as it is a benefit of reservation that has been given by the authorities to a particular class of people, who are or were labourers in the tea gardens in Assam and the reservation in this category should not be given to any other category of persons if their predecessors/forefathers were not tea garden labourers in the tea gardens of Assam. If the aforesaid exercise is not undertaken in the manner as indicated, a person belonging to a particular community who do not belong to the TGL/Ex-TGL category would enjoy the benefit of reservation and a person who may genuinely belong to the TGL/Ex-TGL category would be deprived of the benefit.

39. The Medical Education Department may at the first instance provide the list and the certificates of the persons who had already been offered seat under the TGL/Ex-TGL category and immediately thereafter provide the list and the certificates of the other persons who have also applied under the reserved quota of TGL/Ex-TGL category.

40. The initiation for implementation of this order be made forthwith.

41. We appreciate the service of the learned Senior Counsel Mr. UK Nair in

assisting the Court on the question of determining the entitlement of the candidates under the TGL/Ex-TGL category.

42. List on 22.09.2023 for further updates.

43. The Committee shall also take the aid and advice of the Director of Welfare of Tea and Ex-Garden Tribes for an appropriate determination and the Director is also requested to cooperate with the Committee and if possible, to also attend the meetings of the Committee.

44. A copy of this order be provided to Mr. D Nath, learned Senior Government Advocate for the State respondent authorities, Mr. B Gogoi, learned counsel for the respondents in the Medical Education Department, Mr. RM Das, learned counsel for the respondents in the Social Justice and Empowerment Department as well as Mr. UK Nair, learned Senior Counsel who had assisted the Court as an Amicus Curiae for taking up further correspondences, if necessary.

List on 22.09.2023.

JUDGE

Comparing Assistant