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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 2557 OF 2016

Nikhil Uttareshwar Deshmukhe

... Petitioner

Vs

1. State of Maharashtra & Ors.

... Respondents

Mr. Datta H. Pawar for the Petitioner.

Ms. Sushma Bhende, AGP, for the Respondent.

**CORAM : S.C. DHARMADHIKARI &
A.A. SAYED, JJ.**

MONDAY, 07TH MARCH, 2016

P.C. :

1. By this writ petition under Article 226 of the Constitution of India, the petitioner prays for issue of a writ of mandamus or writ in the nature thereof directing respondent No.4 to consider and decide the validity of the caste claim of the petitioner in a time-bound manner. We have been noticing a trend and emerging for years together in this Court.

2. The parties like the petitioner before us desirous of obtaining education, electoral benefit or Government jobs etc.

obtain a caste certificate pursuant to an application made to the competent authority or otherwise. On the strength of this caste certificate they enroll themselves and are admitted against a reserved seat in professional courses like that of medicine and engineering. Thereafter we find that the caste certificate is forwarded through the college for scrutiny and validation to the competent Caste Scrutiny Committee. Thereafter the Committee and the college is told to address periodical letters based on which the petitioner rushes to this Court and on the cause of action stated to be an apprehension and genuine of loosing all career prospects because of alleged inaction of the Committee in disposing of the claim in a time-bound manner. During all this time, the study is continued and with the aid of some interim or other arrangement carved out by this Court. Thereafter, when results are about to be declared, a petition is again filed and this time, directions to the Committee are sought to pass an order in a time-bound manner. In such a round also, the Court is requested to declare the results provisionally. We see that from this a pattern or design is emerging where with the aid of such orders of the Court and involving the Court, the study or the course is completed and it is claimed that now being a professional, the

Scrutiny Committee should not visit the student or the carrerist with adverse consequences. Nothing, save and except sympathy and equity is the basis on which the relief is claimed.

3. However, the result is that when the Caste Scrutiny Committee invalidates the caste claim, the consequences under the Act ought to follow. These are nullification of the admission against a reserved seat and consequently the entire study. That also results and in appropriate cases in prosecution and civil liability. All this is obviated by the student or a candidate or a party like the petitioner by making applications of the present nature to this Court. Resultantly, a genuine and deserving reserved category candidate is deprived of his educational prospects and career.

4. This is one more instance where the petitioner is requesting this Court to allow him to continue his education pending scrutiny of his caste claim. He is stated to have completed the study for the first year of MBBS course and is now to appear for the examination in May - June, 2016. The petitioner passed his HSC examination with 93.27%. He also appeared for the MHCET

entrance test and secured state rank 2104.

5. The petitioner's academic record is good and he comes from a humble and poor family according to him. That is how he was admitted against the reserved seat on the strength that he belongs to Wani OBC. The admission was secured in the reserved category against his caste certificate and which has been forwarded for scrutiny on 19th March, 2015. From that date till today, the Scrutiny Committee has not been able to pass any final order on the application / claim. These are indeed sorry state of affairs for the Committee would take its own sweet time and the college will continue to accommodate the petitioner may be till he completes the MBBS course study. The result would be as narrated by us above.

6. In such circumstances, we called upon Ms. Bhende to take instructions from the Committee and with regard to a outer time frame within which it would decide the claim.

7. After speaking to the concerned official of the Divisional Caste Scrutiny Committee - I, Solapur, Ms. Bhende informs the

Court that the Committee will pass an order within three months from today.

8. We accept this statement made by Ms. Bhende, on instructions, as an undertaking given to this Court. However, if the order of the Scrutiny Committee is not passed and communicated within three months, we would be constrained to summon the Committee officials before this Court and also take action under the Contempt of Courts Act, 1971. We direct that everything that the petitioner and the college in which he is admitted does would be subject to the order of the Scrutiny Committee and if that is adverse, then, all consequences in law will follow. However, this would not preclude the petitioner from challenging the order in proceedings before this Court under Article 226 of the Constitution of India. We would also consider imposing costs and penalty to be paid by the Committee officials in the case of delay of more than three months. Needless to clarify that if the petitioner is found to be eligible to appear for the examination in the month of May - June, 2016, for the 1st MBBS course, he shall be allowed to appear by the college and the University concerned. However, it will be subject to the above.

9. The writ petition is disposed of in these terms.

A.A. SAYED, J.

S.C. DHARMADHIKARI, J.