

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1713/2016

Abhishek Mahendra Bhosale

...Versus...

Divisional Caste Certificate Scrutiny Committee No.3, Nagpur Division, Nagpur
through its Chairman, Nagpur and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri U.J. Deshpande, Advocate for petitioner
Mrs. K.R. Deshpande, AGP for respondent nos.1 and 2

CORAM : SMT. VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : 17.06.2016

By this petition, the petitioner seeks a direction to the respondent – Scrutiny Committee to decide the caste claim of the petitioner, within a time-frame.

The petitioner seeks a direction against the respondent no.3 – College to protect the education of the petitioner, till his caste claim is decided.

The petitioner claims to belong to 'Mahar' Caste that is included in the Scheduled Castes. The petitioner was admitted to a seat in the Bachelor of Engineering Course in the respondent no.3 – College for the academic year 2015-2016, that was reserved for the Scheduled Castes. The petitioner had submitted his caste claim to the Scrutiny Committee for verification. The

Scrutiny Committee has not verified the caste claim of the petitioner and the respondent no.3 – College had threatened to cancel the admission of the petitioner and hence, the petitioner has approached this Court for the aforesaid direction.

Mrs. Deshpande, the learned Assistant Government Pleader appearing for the Scrutiny Committee states, on instructions, that the caste claim of the petitioner is pending before the Scrutiny Committee and though the petitioner was asked to supply the old documents prior to 1950, the petitioner has not supplied the same. It is submitted that it was necessary for the petitioner to produce the old documents of the Pre Independence Era in support of his caste claim.

On hearing the learned Counsel for the parties, we find that the Scrutiny Committee was not justified in refusing to verify the caste claim of the petitioner on the ground that the petitioner had not tendered the old documents to substantiate his caste claim. It would be necessary for the Scrutiny Committee to decide the caste claim on the available documents. The Scrutiny Committee has a right to either validate the caste claim or reject the same, if the petitioner fails to prove the same. The Scrutiny Committee would however not have jurisdiction to refuse to verify the caste claim on the ground that the claimant has not tendered the old documents in support of his/her case. There may be cases where the claimants may not possess the old documents as the ancestors of the given claimants may not be literate and may not be holding landed properties. In such cases, it would be difficult for the claimants to produce the old documents of the

Pre Independence Era or the documents that are executed before the deemed date. The refusal on the part of the Scrutiny Committee to verify the caste claim of the petitioner on the aforesaid ground is therefore not just and proper.

We find that the petitioner is not at fault in not producing the caste validity certificate and hence, the respondent no.3 – College is required to protect his education, till his caste claim is verified.

Hence, for the reasons aforesaid, the writ petition is allowed. The respondent – Scrutiny Committee is directed to decide the caste claim of the petitioner, within a period of eighteen months. The respondent no.3 – College is directed to protect the education of the petitioner, till his caste claim is decided.

Order accordingly. No costs.

JUDGE

JUDGE

Wadkar