

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

**CRIMINAL WRIT PETITION NO.682/2016**

Sunil S/o Vitthalrao Kodape

..Vs..

State of Maharashtra and others

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

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Shri I.G. Meshram, Advocate for the petitioner.  
Shri H.D. Dubey, A.P.P. for the respondent Nos.1 and 2.  
Shri P.D. Meghe, Advocate for respondent No.4.  
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**CORAM : Z.A. HAQ, J.**

**DATE : 16.10.2018.**

The petitioner is working as labourer with National Institute of Social Work at Nagpur of which the respondent No.4 is Principal. The petitioner made a complaint to police station Sakardara on 11<sup>th</sup> April, 2013 making grievance that as the petitioner belongs to Gond community which is recognized as Scheduled Tribe in the State of Maharashtra and the institution is under the control of *Brahmin* community, the petitioner was victimized and was deprived of his legitimate service benefits and was put to monetary loss also. According to the petitioner, the benefits of Career Advancement Scheme (CAS) were not made available to the petitioner. As police failed to take cognizance of the complaint of petitioner, he approached the Commissioner of Police, Nagpur on 17<sup>th</sup> April, 2013. Again cognizance was not taken by the police and, therefore, the petitioner approached the learned Magistrate under Section 156(3) of the Code of Criminal

Procedure. By order dated 1<sup>st</sup> August, 2013, the learned Magistrate found that there was no substance in the complaint made by the petitioner and he returned the application filed by the petitioner under Section 156(3) of the Code of Criminal Procedure. Being aggrieved in the matter, the petitioner approached the Sessions Court in revision, which is dismissed by the impugned order.

With the assistance of the learned Advocates for the respective parties, I have examined the documents placed on record of the writ petition and have also gone through the orders passed by the learned Magistrate and by the learned Sessions Judge.

The grievance of the petitioner is that he is victimized by the Management and the Principal of institution and he is deprived of service benefits only because he belongs to backward class i.e. Scheduled Tribe and the institution is administered by Brahmins. In this background, the petitioner alleges that the Principal of the college is liable to be convicted for the offence under Section 3(1)(ix), 3(1)(x), 3(1)(xiv) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under Sections 166, 167, 168, 171(c) and 171(f) of the Indian Penal Code. The learned Magistrate as well as the learned Sessions Judge have examined the matter and have recorded that the petitioner has not been able to substantiate that the ingredients necessary to constitute the offence under the above referred provisions are existing *prima facie*, which necessitates investigation. On query as to whether the

petitioner has approached any competent forum to seek relief in respect of the service benefits which according to him are denied, the learned Advocate for the petitioner initially avoided to give answer, however, after some time, he submitted that the proceedings would be initiated soon and they are under process of preparation. The learned Advocate for the respondent No.4 has submitted that the petitioner has approached the grievance committee of Rashtrasant Tukdoji Maharaj Nagpur University and has challenged the decision of the Principal and the institution directing withholding of three increments of the petitioner, and those proceedings are pending.

Be that as it may, I concur with the conclusions of the learned Magistrate as well the learned Sessions Judge that the dispute, which is sought to be raised by the petitioner, pertains to his claim for promotion and / or other service benefits and the ingredients necessary to constitute the offence, *prima facie* under the provisions as referred above, are not established necessitating directions under Section 156(3) of the Code of Criminal Procedure. I do not find any illegality or error of jurisdiction which necessitates interference by this Court in the extraordinary writ jurisdiction. The writ petition is **dismissed**.

JUDGE