

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2970 OF 2019

**YATHARTH YOGESH THAKUR AND ANOTHER
THROUGH FATHER YOGESH SHIVDAS THAKUR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. K.T. Shirrurkar, Advocate for the petitioners
Mrs. R.P. Gour, AGP for the respondent/State.

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 28.02.2019

P.C. :-

1. Heard learned counsel for the petitioners.
2. The petitioners are the students approaching this Court through the natural guardian father with substantive prayer clauses (A) and (B). On going through the material placed on record and on hearing the learned counsel for the petitioner, the petition is taken up for disposal at the admission stage. Issue notice to the respondents, returnable forthwith. Learned AGP waives service of notice for respondent Nos.1,2 and 3.
3. The petitioners have approached the Sub Divisional Officer with a request for issuance of the caste certificate. The proposal for grant of certificate was submitted to the office of the Sub Divisional Officer, Faizpur to Tahasildar, Yawal on 16.10.2017. The petitioners had placed on record certain documents in support of the claim of the petitioners. As the

application was pending for considerable long time, the petitioner was left with no choice but to approach this Court by filing writ petition No.13230 of 2018. Copy of the order of the Division Bench dated 21.01.2019 is placed on record. A specific statement is made by the learned counsel that the writ petition No.13230 of 2018 was filed in this Court on 26.11.2018 and the same came up before this court on 03.12.2018. On 03.12.2018 notices were issued to the respondents-authorities. Perusal of the order of this Court dated 21.01.2019 shows that the application was filed by the petitioners on 17.01.2019. Thus, it seems that it was pending before the Tahasildar for quit sometime. It was pending before the authority and after considerable period i.e. on 16.10.2017 the Tahasildar forwarded the proposal to the Sub Divisional officer, Faizpur. The Division Bench of this Court considering this very fact observed that the application is pending and the authority ought to have decided the application within stipulated period of 30 days, is sitting tight over the application and with further observations that it is lethargy of the authority i.e. respondent No.2 in not deciding the application for a long period and such an approach is not acceptable and not tolerable. The Division Bench of this Court directed respondent No.2 to take decision on the application within stipulated period of 30 days from the date of order i.e. 21.01.2019. The petitioner was directed to appear before respondent No.2 on 31.01.2019. The petitioners accordingly submitted an application to Sub Divisional Officer, Faizpur on 31.01.2019 and requested the authority to decide the application giving

certain details of the documents and also referring to the order of this Court in writ petition no.13230 of 2018. The petitioner was informed by communication dated 20.02.2019, the said communication is placed on record at Exh.'A'. It seems that the petitioner also submitted a reminder to the authority on 13.02.2019. By communication dated 20.02.2019 the Sub Divisional Officer informed the petitioner that the application is already rejected by the authority on 03.10.2018 and the copy of the order is supplied to the petitioner as such it is not necessary for the authority to pass orders afresh on the application of the petitioner. The so called order dated 03.10.2018 is placed on record by the petitioner. While assigning the reasons for rejecting the application the Sub Divisional Officer referred to the documents submitted by the petitioner and then further informed the petitioner that the petitioner is at liberty to file an appeal within 30 days from the receipt of order.

4. Without observing anything on the order passed by the Sub Divisional Officer we are considering the grievance of the petitioner submitted by the learned counsel for the petitioners that the order is stated to be passed on 03.10.2018 and received by the petitioner on 22.02.2019 with a covering letter dated 20.02.2019, the petitioner has the every reason to apprehend that the Scrutiny Committee will not entertain the appeal even if the petitioners approach to the Scrutiny Committee to prefer the appeal. Learned counsel for the petitioners submits that the petitioners are only

anxious to seek a decision in appeal on its merits as appeal being the remedy under the provisions of the Act to the petitioners and the petitioners are availing this remedy.

5. On perusal of the documents referred to above, we find considerable merit in the submission of the learned counsel for the petitioners. Thus, the learned counsel for the petitioners submits that petitioners would present appeal before the Committee-respondent No. 2 within one week from today. In case such appeal is submitted to the Committee-respondent No.2 within one week, the Committee to entertain the appeal without raising any objection on the ground of delay and decide the same on its merits as expeditiously as possible and not later than ten (10) weeks from the date of order of this Court.

6. With the above directions, the writ petition is disposed of.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]