



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5317 OF 2022

Vaibhav s/o Nandkishor Hiwale
Age 20 Years Occupation : Student
S/o Nandkishor Hiwale,
Indian Inhabitant, Residing at :
Village Jafarabad, Tehsil Jafarabad,
Malegaon Galli, Jafarabad,
District Jafarabad.

...Petitioner

Versus

- 1 **The State of Maharashtra**
Through the Secretary
Social Justice and Special
Assistance Department,
Maharashtra State, Mumbai-32.
- 2 **The Commissioner,**
Social Welfare Department,
Maharashtra State, Church Road,
Camp, Pune-411011.
- 3 **The Regional Deputy
Commissioner,**
Social Welfare Department,
Aurangabad Region, Aurangabad.
- 4 **The Assistant Commissioner,**
District Social Welfare Office,
Aurangabad.
- 5 **The Principal**
Padmavati College,
T.V. Centre, Aurangabad.
- 6 **The Registrar,**
Maharashtra National Law University
Nath Valley Road, Kanchanwadi,
Aurangabad.

...Respondents

APPEARANCES

Petitioner	Party in Person
Addl.GP for the Respondents Nos. 1 to 4/State	Mr. P.S. Patil
Advocate for the Respondent No.5	Mr. A.N. Nagargoje
Advocate for the Respondent No.6	Mr. S.K. Kadam

**CORAM : S.G. MEHARE AND
SHAILESH P. BRAHME JJ.**

Date On Which The Arguments Were Heard : 14 DECEMBER 2024

Date On Which The Judgment Is Pronounced : 06 JANUARY 2025

J U D G M E N T (Per Shailesh P. Brahme, J.) :-

1. Rule. Rule is made returnable forthwith. Heard party in person and learned Counsel for the respondents finally.

2. The petitioner is a student of respondent no.6/National Law University who is knocking the doors of this Court for securing the benefits of scholarship scheme which is denied to him by the respondents. He is also seeking direction for returning of the scholarship amount by the respondent no.5 to the respondent no.4 and the ancillary directions.

3. Petitioner belongs to Scheduled Caste Category. He was admitted to the respondent no.5/college for B.C.S. course on 05.07.2019 in the academic year 2019-2020. He cancelled his admission by application dated 07.10.2019 and thereafter by sending mail on 19.11.2019. He appeared for entrance examination and he was

allotted a seat in the respondent no.6/Maharashtra National Law University (Hereinafter referred to as MNLU) on 21.10.2020. He applied for scholarship on or about 04.10.2021. But it was not awarded.

4. When he was in respondent no.5/College, he had submitted application for scholarship on 01.10.2019. Few installments of scholarship were credited to his account. After cancellation of admission, he refunded amount of Rs.31,658/- on 30.09.2021. He is eligible for the scholarship. He is not in position to pay the balance of fees. Hence the present petition is filed.

5. Petitioner submits that he had cancelled his admission by timely communication to the respondent no.5. He did not attend the classes and participate in the curriculum of the respondent no.5. The amount received by him towards scholarship was refunded by him on 30.09.2021. Thus there is no fault on his part and he is eligible for the scholarship. He submits that the installments of scholarship were credited to his account behind his back. There was no proper verification for awarding him scholarship by the office and the Principal of respondent no.5. Respondent no.5 did not follow proper procedure. There is violation of Government Resolution dated 31.03.2016 and 18.01.2019.

6. He further submits that for the SC category, there is no redeem button and the scholarship gets automatically credited to account. He even did not receive any message. He submits that he made correspondence with the respondent no.6 for granting him scholarship. Lastly it is submitted that Clause No.5 of Annexure – V of Government Resolution dated 01.11.2003 cannot be made applicable to deprive him

of the scholarship.

7. The contesting Respondent No.5 opposes the claim of petitioner by filing affidavit-in-reply. It is submitted that the petitioner was admitted to its College and he opted for the scholarship. He received installments. He did not timely approach in person to the Respondent No.5 and comply with the formalities of cancellation. The cancellation was effected on 07.10.2020. He is responsible for securing scholarship and abandoning the course causing loss to one eligible student. It is submitted that there is no fault on part of Respondent No.5.

8. Another contesting party - Respondent No.6/MNLU has resisted the claim by filing affidavit-in-reply. It is contended that the petitioner took benefit of scholarship when he was in Respondent No.5/College and abandoned the course. He is not eligible to claim for scholarship for the present course in view of Government Resolution dated 01.11.2003. It is submitted that Petitioner suppressed earlier admission and the scholarship. He is liable to pay the dues of Rs.5,54,189/- towards fees. It is further submitted that MNLU does not have serious objection if the Petitioner is awarded scholarship. The Petitioner has not complied with the requirement of furnishing certain documents. Reliance is placed on G.R.dated 01.11.2003.

9. Learned AGP appearing for the respondent nos. 1 to 4 opposes the claim of the Petitioner. In view of Government Resolution dated 01.11.2003, he is not eligible for scholarship. The refunding of the installments credited to the Petitioner was after two years.

10. We have considered the rival submissions of the parties. We

permitted the Petitioner to tender on record certain documents during the course of hearing. We have gone through the pleadings of the parties also. There is no dispute that Petitioner belongs to Scheduled Caste Category and holds validity certificate.

11. The Petitioner was admitted to Respondent No.5 on 05.07.2019 for the B.C.S course. Application for Government of India Post Matrix scholarship was submitted on or about 01.10.2019 and thereafter it was forwarded to the competent authority. He did not attend the college and participate in the curriculum. He did not appear for first semester examination. We need not to go into the details as to the availability of redeem button or automatic crediting the amount to the Petitioner's account. The fact remains that the Petitioner received installments on 26.03.2020 and thereafter on 20.06.2020 which is apparent from the reply of the Respondent No.5 and Annexure – R-2.

12. The Petitioner canceled his admission by making application to the Respondent No.5 on 07.10.2019. Additionally he sent mail to the college on 21.11.2019 which is evident from his pleadings and the Annexures. Respondent No.5 also admits that on 19.12.2019, mail was received alongwith application dated 07.10.2019. But it is contended that in the year 2018, he was not the student. The Petitioner might not have physically contacted the Respondent No.5 and complied with the procedure for cancellation. But Respondent No.5 had intimation of cancellation of his admission.

13. The crediting of the installments of the scholarship to the Petitioner's account which occurred on 26.03.2020 and 20.06.2020 was not within his control. By that time, he had abandoned the course with the Respondent No.5, but awaiting for admission with Respondent

No.6/MNLU. He secured admission with the Respondent No.6 on or about 21.10.2020. It is not that after being admitted to the Respondent No.6, the installments were received by him. Similarly it is not that he made misrepresentation of being student of Respondent No.5 after his admission to the Respondent No.6/MNLU to obtain the installments. Thereafter the amount of Rs.31,658/- was refunded by the Petitioner on 30.09.2021.

14. Initially on 07.10.2019, 19.11.2019 and 19.12.2019, the Petitioner intimated the Respondent No.5 for the cancellation of his admission. Respondent No.5 is also not denying this fact. The formalities were not completed by the Petitioner is the complaint of college. On 07.10.2020, Petitioner approached the Respondent No.5 and completed the formalities and the admission was canceled. In all probabilities, after ensuring his admission with the Respondent No.6/MNLU, he might have approached the Respondent No.5 for cancellation of his admission. Though formalities as expected by the Respondent No.5 was not complied with by the Petitioner, we do not see any mala fides or any oblique motive on his part. The sequence of events narrated above, do not exhibit that the conduct of the Petitioner was to usurp the scholarship. He is entitled to receive scholarship otherwise also. Due to his discontinuation of earlier course, the problems are created.

15. Some lapses are attributable to Respondent No.5 . When Petitioner was not attending the college, without due verification, his scholarship forms were forwarded on 25.11.2019. When the Respondent No.5 was apprised of the fact that the Petitioner was intended to cancel the admission vide his application dated 07.10.2019 and mail dated 19.11.2019 his form should not have been forwarded. The Petitioner did not receive any installments after being admitted to the

Respondent No.6/MNLU. His endeavour to refund the amount though after sometime reflects his bonafides. The Respondent no.5 was not alert enough. It could have avoided this situation.

16. We cannot be oblivious of the fact that the Petitioner is a student of weaker section of the society. He has refunded the amount. He had a right to abandon the earlier course and to secure admission to new course. Only in the interregnum period, he was awarded few installments of the scholarship. At the most some procedural aberrations can be attributed to him which would be in nature of irregularity. We do not find any dishonest intention on his part.

17. The Respondents heavily relied on Annexure-5 of Government Resolution dated 01.11.2003 which is as follows :

५ शिष्यवृत्ती घेणा—या विद्यार्थ्याने या अभ्यासक्रमासाठी शिष्यवृत्ती घेतलेली आहे तो अभ्यासक्रम त्याने पूर्ण केला पाहिजे. जर तो अभ्यासक्रम त्याने अर्धवट सोडला व दुस—या अभ्यासक्रमास प्रवेश घेतला तर दुस—या अभ्यासक्रमाची शिष्यवृत्ती त्यास अनुज्ञेय होणार नाही. उदा — जरी एका विद्यार्थ्याने बी.एस.सी प्रथम वर्ष या अभ्यासक्रमाला प्रवेश घेवून पूर्ण वर्षाची शिष्यवृत्ती उचलली होती. पुढील वर्षी बी.एस.सी. द्वितीय वर्गात प्रवेश न घेता त्याने बी.ए प्रथम वर्षासाठी दुस—या किंवा त्याच महाविद्यालयात प्रवेश घेतल्यास त्याला शिष्यवृत्ती अनुज्ञेय होणार नाही. बहुतेक विद्यार्थी अर्ध्यातून अभ्यासक्रम सोडून दुस—या अभ्यासक्रमात प्रवेश घेताना गॅप सर्टिफिकेट सादर करतात व त्या प्रतिज्ञापत्रामध्ये मागील वर्षामध्ये कोठेही प्रवेश घेतलेला नव्हता व मी शिकत नव्हतो असे लिहून देतात. वास्तविक पाहता अशा केसेसमध्ये तो मागील वर्षी खरेच कोठेही प्रवेशित नव्हता व त्याने अध्यावरच एखादा अभ्यासक्रम सोडून आता दुसरीकडे प्रवेश घेतो आहे किंवा कसे याविषयी खात्री करणे आवश्यक आहे.

5 The student who is availing the scholarship must complete the study course for which he has taken the scholarship. If he drops out of the study course and takes admission in another study course, then the scholarship for another study course will not be admissible to him. For example, if a student avails a full-year scholarship by enrolling in B.Sc. second year. The scholarship will not be admissible to him if in the following year, he takes admission in another college or the same college for B.A first year without taking admission in B.Sc second year. Most of the students, when they drop out of the study course and enrolling for another course of study, they submit a gap certificate and a written affidavit stating that they have not enrolled anywhere in the previous years and are not studying. In fact, in such

cases, it is necessary to ascertain that, whether he actually did not enroll anywhere in the previous year and has dropped out of the study course and is now enrolling for another one (study course).

18. In the present case, the Petitioner was absent since beginning in the Respondent No.5/college. He even did not appear for semester examination. He made endeavour to cancel his admission. Thereafter he was not awarded installments. Thus it's not a case that Petitioner received scholarship either for the first year or for entire curriculum of B.C.S. course. It's not a case of abandoning of the course in halfway through. For the petitioner, his earlier course didn't commence. What is prohibited is explained by example given in the above provisions. Such is not a case in the present matter. Therefore above clause is not an impediment for the Petitioner to claim scholarship when he is prosecuting law course with the Respondent No.6.

19. While submitting different forms, the Petitioner has given inconsistent information. Respondent No.6 emphasized on such inconsistency. Respondent No.5 also harped upon fact that the cancellation occurred belatedly on 07.10.2020. For this unmindful mistake, it would be too harsh to deprive the Petitioner from entire scholarship of integrated five years course of B.A. LL.B.

20. We have noticed that apparently otherwise Petitioner is eligible. There is no intentional misconduct on his part. He has refunded the amount. These mitigating circumstances appeal to us. We are therefore of the considered view that the Petitioner is entitled to receive the scholarship except for academic year of 2020–2021. Rider is that he should promptly comply with the deficiencies and submit the application alongwith the documents. Respondent Nos. 1 to 4 shall

process the application for the scholarship, for 2021–2022 and onwards and shall not insist on procedural technicalities, albiet awarding of scholarship would be on merit and eligibility. For the reasons assigned above, we pass following order :

ORDER

- i The Petitioner shall be entitled to receive the Post Matrix Scholarship from the year 2021–2022 and onwards, on furnishing the application with required documents.
- ii The Petitioner shall submit application to the Respondent No.6/MNLU and / or Respondent No.6/MNLU shall forward the application to the Respondent Nos. 2 and 3 within three weeks. Respondents shall entertain application in physical form also.
- iii Respondent No.2 and 3 shall consider the application for scholarship and disburse the amount if the Petitioner is eligible, within three weeks thereafter.
- iv Rule is made absolute in above terms.

[SHAILESH P. BRAHME]
JUDGE

[S.G. MEHARE]
JUDGE

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