

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 583 OF 2014

SWAMI VIVEKANAND SHIKSHAN PRASARAK MANDAL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. Gunale V. D.
AGP for respondents-State: Mr. K.G. Patil

WITH

WRIT PETITION NO. 1802 OF 2014

MAHANANDA BHANUDAS KAMBLE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

.....

Adv. for petitioner Shri V.J. Dixit, senior counsel i/b Ms. S.L. Pansambal
AGP for respondent-State: Mr. K.G. Patil
Advocate for respondent No. 9 to 18: Mr. V.D. Gunale

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**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 2nd JULY, 2015

P.C. :-

1. In both these matters, the petitioners claim reimbursement of fees in respect of reserved category candidates for the year 2011-2012 and 2012-13.

2. We have heard Mr. Dixit, learned senior counsel and Mr. Gunale, learned counsel for respective petitioners. The contention of petitioners is that for the period prior to 2012-13 and for the period

from 2013-14, the petitioners are being reimbursed the tuition fees and other fees of reserved category candidates in respect of ANM and GNM course. According to the learned counsel, reimbursement of the fee for the years 2011-12 and 2012-13 has been illegally withheld and the petitioners are entitled for the same.

3. Mr. Patil, the learned AGP submits that in view of cause (9) of the Government Resolution dated 21st March, 2005, as the petitioners had not obtained permission of the Government, the reimbursement of the fee is not granted. It is only after the judgment of the Division Bench of this Court in PIL No. 72 of 2013, the petitioners are being given reimbursement of fees for the subsequent years.

4. We have considered the submissions canvassed by the learned counsel for the respective parties. Clause (9) of the Government Resolution dated 21st March, 2005 has been held to be *ultra vires* and illegally by the Division Bench of this Court in PIL No. 72 of 2013. When the said clause itself has been set aside and held to be illegal and not in consonance with the statute, then only because of the said PIL was pending, the State would not be entitled to withhold reimbursement of the fees of the years 2011-2012 and 2012-13.

5. In the light of above, the respondent-State is directed to release the tuition fees/examination fees of the students of the petitioners school for the reserved category students of ANM/GNM course for the academic year 2011-12 and 2012-13, expeditiously, preferably within three months from today.

6. Writ petitions accordingly, stand disposed of. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

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