

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

WRIT PETITION NO. 6994 OF 2015

Alfatah Education Welfare Society's
Yeshwant Institute of Nursing,
through its Director .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Ashwin V. Hon, Advocate for Petitioners.
Shri K. J. Ghute Patil, A.G.P. for Respondent Nos. 1 to 5.

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.
DATE : 13TH JULY, 2015.**

PER COURT :

. The petitioner claims reimbursement of fees in respect of reserved category candidates for the years 2011-2012 and 2012-2013.

2. We have heard Mr. Hon, learned counsel for the petitioner. The contention of the petitioner is that for the period prior to 2012-2013 and for the period from 2013-2014, the petitioner is 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 2011-2012 and 2012-2013 has been illegally withheld and the petitioner is entitled for the same.

3. Mr. Ghute Patil, learned Assistant Government Pleader submits that in view of clause (9) of the Government Resolution dated

21st March, 2005, as the petitioner had not obtained permission of the Government, the reimbursement of the fees is not granted. It is only after the judgment of the Division Bench of this Court in PIL No.72 of 2013, the petitioner is 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 virus and illegal 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 the said PIL was pending, the State would not be entitled to withhold reimbursement of the fees for the years 2011-2012 and 2012-2013.

5. In light of the above, the Respondent – State is directed to release the tuition fees/ examination fees of the students of the petitioner institution for the reserved category students of ANM/ GNM course admitted through CAP round for the academic year 2011-2012 and 2012-2013, expeditiously, preferably within three (03) months from today.

6. The writ petition accordingly, stands disposed of. No costs.

[V. K. JADHAV, J.]

[S. V. GANGAPURWALA, J.]