

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****WRIT PETITION NO. 8428 OF 2015**

Shiva Trust Aurangabad's
Shruti Nursing School (RANM & RGNM)
Wadala-Mahadev, Newasa-Shrirampur Road,
Tq. Shirampur, Dist. Ahmednagar.
Through its President
Dr. Balasaheb Shivajirao Pawar
Age : 47 years, Occ : Social Worker,
R/o Plot No.57, G-Sector, N-4,
CIDCO, Aurangabad.

..PETITIONER

VERSUS

1. The State of Maharashtra
Through the Secretary for
Medical Education and Drugs Department,
Mantralaya, Mumbai
2. The Secretary,
Social Justice and Special Assistance
Department, Maharashtra State,
Mumbai.
3. The Commissioner,
Social Welfare Department,
Maharashtra State, Mumbai.
4. The Director,
V.J.N.T, O.B.C. and S.B.C.
Social Welfare Department,
Maharashtra State,
Pune-1.
5. The Regional Deputy Commissioner,
Social Welfare Department,
Nashik Region, Nashik.

6. The Assistant Commissioner,
District Social Welfare Office,
Ahmednagar.

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Advocate for Petitioner : Mr. Jadhav Chandrakant A.
AGP for Respondent/State : Mr. V.H. Dighe

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CORAM : S.S. SHINDE & A.M. BADAR, JJ.

Dated: October 27, 2015

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ORAL JUDGMENT :- (Per S.S. Shinde,J.)

1. Heard.

2. Rule. Rule made returnable forthwith. With the consent of the parties, the petition is taken for final hearing.

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

4. We have heard Mr. Jadhav, 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.

5. Mr. Dighe, the 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.

6. 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 2012-13. The condition of suitability certificate is imposed vide Government Resolution dated 27.3.2014. The directions with regard to reimbursement of fees is for the years 2011-12 and 2012-13. The said condition was not relevant for the said period.

7. In light of the above, the Respondent – State is directed to release the tuition fees/ examination fees of the approved students of the petitioner School for the reserved category students of ANM/GNM course admitted for the academic year 2011-2012 and 2012-2013, expeditiously, preferably within three (03)

months from today, without insisting for the suitability certificate for the period 2011-12 and 2012-13.

8. Rule accordingly made absolute in above terms. No costs.

(**A.M. BADAR, J.**)

(**S.S. SHINDE, J.**)

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