

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

WRIT PETITION NO.:9606 OF 2014

The Maharashtra Homeopathic Foundation,
Ahmednagar And Another
VERSUS

The State Of Maharashtra And Others

Mr. Shirsath P.B., Advocate for Petitioners.
Mr.K.G.Patil, A.G.P. for Respondent/State Authorities.

WITH

WRIT PETITION NO.:8461 OF 2014

Shiva Trust's Aurangabad Nursing School(ANM/GNM),
at Bhalgaon, Aurangabad

VERSUS

The State Of Maharashtra And Others

Mr. Mr. V.D.Hon, Senior Counsel, i/b Hon Ashwin V., Adv. for Petitioners.
Mr.K.G.Patil, A.G.P. for Respondent/State Authorities.

WITH

WRIT PETITION NO.:11726 OF 2014

Shiva Trust, Aurangabad And Others
VERSUS

The State Of Maharashtra And Others

Mr. Mr. V.D.Hon, Senior Counsel, i/b Hon Ashwin V., Adv. for Petitioners.
Mr.G.K.Thigale, A.G.P. for Respondent/State Authorities.

AND

WRIT PETITION NO.:11783 OF 2014

Saraswati Bahhudeshiya Shikshan Sanstha's
Priyanka Gandhi Nursing School, Aurangabad
VERSUS

The State Of Maharashtra And Others

Mr. Mr. V.D.Hon, Senior Counsel, i/b Hon Ashwin V., Adv. for Petitioners.
Mr.G.K.Thigale, A.G.P. for Respondent/State Authorities.

CORAM : **S. V. GANGAPURWALA and
V.L. ACHLIYA, JJ.**

DATE : 12th January, 2015.

P.C.:

1 In all these matters, the Petitioners claim reimbursement of fees in respect of reserved category candidates for the years 2011-12 and 2012-13.

2 We have heard Mr.Hon, Senior Counsel and Mr. Shirsath, learned counsel for the respective Petitioners. The contention of the 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, learned AGP submits that in view of clause (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 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 2011-12 and 2012-13.

5 In light of the 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.L. ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]

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