

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1069 OF 2015

[Mrunal d/o Govind Thangan and others .vs. The State of Maharashtra and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.S. Wathore, counsel for the petitioners,
Mrs. B.H. Dangre, Government Pleader for the respondents.

CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.

DATED : AUGUST 25, 2015.

By this petition, the petitioners challenge the Circular of the State of Maharashtra, dated 8.7.2014 as being bad in law and in contravention to the Government Resolutions, dated 24.6.2013 and 17.8.2013. The petitioners seek a direction to the respondent nos.1 to 4 to consider the case of the petitioners for free ship/scholarship in the first year of the M.B.B.S. degree course.

The petitioners had appeared at the MH-CET examination of summer 2013 and were admitted to the M.B.B.S. degree course in September, 2014. At the relevant time, according to the petitioners, the income limit for grant of Non Creamy Layer Certificate was Rs.6 Lacs, as per Government Resolution, dated 24.6.2013. Since the income of the parents of the petitioners was less than Rs.6 Lacs per annum, the petitioners applied for scholarship/free ship, as they had produced the Non Creamy Layer Certificate, but the respondents refused to refund the fees paid by the petitioners by relying on Government Circular, dated 8.7.2014, that provided for free ship/scholarship only to the students whose parents' income was less than Rs.4.50

Lacs. The petitioners have challenged the Circular, dated 8.7.2014 on the ground that it is violative of the provisions of Article 14 of the Constitution of India. It is stated that the State cannot have two policies, one providing for the income limit of Rs.6 Lacs for grant of Non Creamy Layer Certificate while seeking admission to the various education courses on the reserved seats and the other providing for the income limit of Rs.4.50 Lacs for securing free ship/scholarship. According to the petitioners, there cannot be a different financial criteria for providing admission on the reserved seats and for securing scholarship/free ship.

The respondent no.1 has filed an affidavit-in-reply. It is stated in the affidavit-in-reply that in view of the Government Resolution, dated 24.6.2013, the financial limit for securing admission to the reserved seats has been increased from Rs.4.50 Lacs to Rs.6 Lacs. It is stated that however for the students desirous of seeking scholarship/free ship, the financial limit is fixed at Rs.4.50 Lacs. It is submitted that the State has only followed the directives of the Central Government while issuing the Government Resolution, dated 24.6.2013. It is stated that while increasing the financial limit for issuance of Non Creamy Layer Certificate for securing admission to an educational course on the seats that are reserved, the State Government would not be required to bear financial burden, but if the State Government decides to increase the income limit for securing scholarship/free ship from Rs.4.50 Lacs to Rs.6 Lacs, the State exchequer would be heavily burdened. It is stated that the Government Circular, dated 8.7.2014 is neither arbitrary nor discriminatory and the petitioners are not entitled to the relief.

On hearing the learned counsel for the parties and on a perusal of the Government Resolution, dated 24.6.2013 and the Government Circular, dated 8.7.2014, it appears that the

State Government has framed two different policies, one fixing the income limit for grant of Non Creamy Layer Certificate to Rs.6 Lacs from Rs.4.50 Lacs for providing admission to the students on the seats earmarked for the reserved categories and the other providing free ship/ scholarship only to students, whose parents' income is less than Rs.4.50 Lacs per annum. The State Government surely has the authority to frame two different policies, one fixing the upper financial limit for grant of Non Creamy Layer Certificate for securing admission on reserved seats and the other for providing scholarship/free ship. The object that is sought to be achieved by both the policies is different. Moreover, the State Government would be required to bear great financial burden if the upper income limit for grant of scholarship/free ship is increased to Rs.6 Lacs. We do not find that Government Circular, dated 8.7.2014 is violative of the provisions of Article 14 of the Constitution of India, merely because it provides different income limit than that is prescribed by the Government Resolution, dated 24.6.2013, as two distinct and separate classes are carved out while framing the two policies in terms of the Government Resolution and the Government Circular. We do not find any force in the submission made on behalf of the petitioners that the Government Circular, dated 8.7.2014 is bad in law, as it is contrary to the Government Resolution, dated 24.6.2013. By the policy in the circular, the Government has decided to grant scholarship to the offsprings of the parents whose income is less than Rs.4.50 Lacs per annum, whereas by the government resolution, the State Government has enhanced the financial limit for granting non-creamy layers certificate from 4.50 Lacs to 6 Lacs for securing admission to the educational institutions on the seats meant for the reserved categories. There is no conflict in the circular and the government resolution as both operate in

different areas and each has a different object to achieve. We do not find any illegality in the action of the respondents in declining scholarship/free ship to the petitioners as admittedly the income of the parents of the petitioners is more than Rs.4.50 Lacs.

In the result, the writ petition fails and is dismissed, with no order as to costs.

JUDGE

JUDGE

Gulande