

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

WRIT PETITION NO.2545 OF 2016

Dhanwantari Shikshan and Samajik
Pratisthan's Institute of Nursing
Education, Sarfaraj Nagar,
Tq. and Dist. Parbhani,
Through its President,
Dr. Hanumant s/o. Rambhau Jadhavar,
Age 57 years, Occ. Service,
r/o. Jadhavar Building,
Near Trimurti Hospital,
Pune

..Petitioner

Versus

1] The State of Maharashtra,
Through its Secretary,
Medical Education and Drug
Department, Mantralaya,
Mumbai – 32

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., & S.B.C.
Social Welfare Department,
Maharashtra State, Pune – 1

..Respondents

Mr.K.D.Bade-Patil, Advocate for petitioner

Mr.B.V.Virdhe, AGP for respondents

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**CORAM : S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.
DATE : MAY 06, 2016**

ORAL JUDGMENT (PER S.S. SHINDE, J.) :

Heard.

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

3] The learned Counsel for the petitioner, on instructions, submits that the claim for reimbursement of fees is restricted to the students from S.C. and S.T. category candidates for the years 2011 to 2016.

4] We have heard Mr.Bade-Patil, learned counsel for the petitioner. The contention of the petitioner is that for the period prior to 2010-

2011, the petitioner was granted reimbursement of the tuition fees and other fees of S.C. and S.T. category candidates in respect of ANM and GNM course. According to the learned counsel, reimbursement of the fee for the years 2011 to 2016 has been illegally withheld and the petitioner is entitled for the same.

5] Mr.Bhushan Virdhe, 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 was not granted.

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

P.I.L. 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, only because the said P.I.L. was pending, the State would not be entitled to withhold reimbursement of the fees. The condition of suitability certificate is imposed vide Government Resolution dated 27.3.2014. The prayer of the petitioner with regard to reimbursement of fees is for the years 2011-16. The State is at liberty to verify the entitlement of the present petitioner keeping in view the Government policy, for reimbursement of the fees and other factual particulars. We have not expressed any opinion on merit of the petition.

7] In light of the above, the respondent – State is directed to consider the prayer for reimbursement of the tuition fees/examination fees of the approved students of the petitioner – Institute for S.C. and S.T. category students of

ANM/GNM course admitted for the academic years from 2011 to 2016, expeditiously, preferably within three (03) months from today.

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

[SANGITRAO S. PATIL, J.]

[S.S. SHINDE, J.]

kbp