

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

C.A.O. NO.1712/2016 IN M.C.A. ST. NO.19412/2016 IN W.P. NO. 5166/2015 (D)
(SHUBHAM SUBHASH NANDANWAR VERSUS STATE OF MAHARASHTRA & OTHERS)

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

Court's or Judge's orders

Shri S.G. Karmarkar, counsel for the applicant.
 Mrs.B.H. Dangre, Government Pleader, for the R-1 & 2.

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : APRIL 27, 2017.

Heard.

The delay in filing the review application is
 condoned. The civil application is allowed and disposed of.

M.C.A. ST. NO.19412/2016 IN W.P. NO.5166/2015
AND W.P. NO.5166/2015.

By this review application, the applicant seeks a
 review of the order dated 08.09.2015 in Writ Petition No.5166
 of 2015.

It is the case of the petitioner that the petitioner was
 admitted in the first year M.B.B.S. degree course in the
 academic session 2014-15 and at the relevant time, as per the
 policy of the Government, the students like the petitioner who
 were admitted on the seats meant for the reserved categories
 were exempted from payment of tuition fees. According to the
 petitioner, at the relevant time, in the year 2014, it was not
 necessary for a candidate securing admission to the professional
 courses to secure admission only through the CAP rounds while
 seeking the benefit of the policy for exemption from payment of
 tuition fees. It is stated that this Court has dismissed the
 petition filed by the petitioner by relying on the policy of the
 government of the previous year.

We find on hearing the learned counsel for the parties that every year the government is changing the policy. As per the policy of the government of the year 2012, a reserved category candidate securing admission to the professional course was exempted from payment of tuition fees though he may or may not have been admitted through the CAP rounds. This policy appears to have been changed by the government for the next academic session, as by the Government Resolution issued in the year 2013, only the reserved category candidates that were admitted through CAP rounds were exempted from payment of tuition fees. On the basis of that resolution, certain writ petitions filed by the candidates as well as the institutions seeking exemption from payment of tuition fees though they were not admitted through CAP rounds, were dismissed. During the immediate next session, as per the policy of the State Government, again the condition of securing admission through the CAP rounds was done away with, and the reserved category candidates were exempted from payment of tuition fees though they were not admitted through the CAP rounds. This policy again underwent a change in the year 2015 and in 2015, the State Government once again made it mandatory for the students claiming exemption from payment of tuition fees, to have secured admission through the CAP rounds. The change in the policy every year was not brought to the notice of this Court and by relying on some previous orders which related to the policy that was applicable for the academic session 2013-14, the writ petition was dismissed.

It appears on hearing the learned counsel for the petitioner and the learned Government Pleader that in the year 2014-15 when the petitioner was admitted in the medical college, it was not necessary for the petitioner to have secured

admission through the CAP rounds while seeking exemption from payment of tuition fees. The said fact was, however, not brought to the notice of this Court by the counsel from either side and in this background, by relying on the previous judgment which pertains to the policy of the year 2013-14, the writ petition was dismissed. Since the order dismissing the petition is based on the mistaken assumption in respect of the policy of 2014, it would be necessary to review the order dated 08.09.2015 and allow the writ petition filed by the petitioner as admittedly in the year 2014-15, when the petitioner was admitted to the M.B.B.S. course as per the policy of the State Government, there was no necessity of securing the admission to the course through the CAP round while seeking exemption from payment of tuition fees. Hence, in the aforesaid set of facts since the error has crept in, as the policy of the year 2014 was not brought to the notice of this Court, the order, dated 08.09.2015 is hereby recalled. The prayer made in the miscellaneous civil application is allowed.

For the reasons recorded hereinabove and also for the reasons recorded in the judgment dated 18.07.2014 in Writ Petition No.4822 of 2013 as also the judgment dated 27.06.2015 in Writ Petition No.4321 of 2015, the writ petition is allowed. The respondents are restrained from seeking tuition fees from the petitioner while he prosecutes the M.B.B.S. course.

Order accordingly. No costs.

JUDGE

JUDGE