

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.2337 OF 2016

Bal Bhagwan Shikshan Prasark Mandal's
Rajiv Gandhi RGNM Nursing School,
Deglur Road, Udgir,
Tq. Udgir, District Latur,
Through Its Principal,
Nagesh Shivraj Hatte,
Age: 28 years, Occ: Service,
R/o. Deglur Road, Udgir,
Tq. Udgir, District Latur.

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, Pune
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,
Latur Region, Latur
6. The Assistant Commissioner,
District Social Welfare Office,
Latur.

RESPONDENTS

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Mr.C.A.Jadhav, Advocate for Petitioners
Mr.P.K.Lakhotiya, A.G.P.for Respondent
Nos.1 to 6.

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**CORAM: S.S. SHINDE AND
S.M.GAVHANE, JJ.**

DATE OF RESERVING JUDGMENT : 10TH JANUARY,2018.

DATE OF PRONOUNCING JUDGMENT: 17TH JANUARY, 2018.

JUDGMENT [PER S.S. SHINDE, J.]:

1. Rule. Rule made returnable forthwith and heard finally with the consent of the learned counsel appearing for the parties.

2. The petitioner claims reimbursement of fees in respect of reserved category candidates /

students for the years 2011-2012 and 2012-2013.

3. We have heard Mr.Jadhav, learned counsel for the petitioner. The contention of the petitioner, that for the period from 2013-14, the petitioner is being reimbursed the tuition fees and other fees of reserved category candidates / students in respect of GNM/ANM course. According to the learned counsel reimbursement of the fees for the years 2011-2012 and 2012-2013 has been illegally withheld and the petitioner is entitled for the same.

4. Mr. Lakhotiya, learned AGP 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.

5. 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 2011-2012 and 2012-2013. The condition of suitability certificate is imposed vide Government Resolution dated 27.03.2014. The direction with regard to reimbursement of fees is for the years 2011-2012 and 2012-2013. The said condition was not relevant for the said period. The issue raised in this Petition is no longer *res integra*. The Division Bench of this Court (CORAM:S.S. SHINDE AND

SANGITRAO S. PATIL, JJ.) in Writ Petition No.2338 of 2016 (Bal Bhagwan Shikshan Prasarak Mandal's New Mother Teresa RANM School of Nursing vs. The State of Maharashtra and others), in the similar fact situation, by Judgment and order dated 18th July, 2016, has directed the Respondent therein to release the tuition fees/examination fees of the approved students of the school for the reserved category of the ANM Course.

6. 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 GNM/ANM course admitted for the academic year 2011-2012 and 2012-2013, after verifying the factual details/position, expeditiously and preferably within three (03) months from today, without insisting for the suitability certificate for the period 2011-12 and 2012-13.

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

[S.M.GAVHANE, J.]

asb/JAN18

[S.S.SHINDE, J.]