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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 5187/2017**

DILIP KUMAR RAM & ORS ..... Petitioners

Through: Mr Kamal Gupta, Advocate with Mr Konark Rishi Bhatnagar, Mrs Tripti Gupta, Advocates.

versus

UNION OF INDIA & ORS ..... Respondents

Through: Mr Bhagwan Swarup Shukla, CGSC with Mr Suraj Kumar, Advocate for UOI.
Mr Aditya Raina, Mr Manish Kumar, Ms Apoorva Srivastava, Advocate for Respondent No.3.
Mr Mohit Paul, Advocate for Respondent No.4.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **22.01.2018**

1. The petitioners - twenty one in number - are students hailing from the State of Bihar and are enrolled with respondent no.4 College for undergoing a two year B. Ed. Course. The petitioners have filed the present petition as they are aggrieved by the non-disbursement of the scholarship amount under the "Centrally-Sponsored Scheme of Post Matric Scholarships for students belonging to Scheduled Castes for studies in India" (hereafter 'PMS-SC').

2. Although, PMS-SC is a scheme which is funded by the Central Government, the same is administered by the concerned departments of the various State Governments.

3. An advertisement was issued in June, 2015 by respondent no.3 (Social Welfare Department, Government of Bihar) inviting Scheduled Caste students for seeking admission under the “Scholarship Scheme” (that is, the PMS-SC) to various institutions. The advertisement stated that the State Government had identified various private institutions, which are conducting technical, vocational and professional courses and invited applications for nominating students to such institutions through counselling. The petitioners, being eligible candidates, applied for scholarships pursuant to the said advertisement and appeared for counselling conducted by respondent no 3.

4. It is not disputed that respondent no. 3 conducted counselling sessions from 10.08.2015 to 14.08.2015 at Patna. Admittedly, the petitioners participated in the aforesaid counselling sessions and were nominated to undergo the two year B.Ed. Course at the respondent no.4 institute. Thereafter, the petitioners approached respondent no.4 Institute in August, 2015 and were admitted to the B. Ed. course.

5. The petitioners have approached this Court as they are aggrieved by non-disbursal of the Scholarship amount claimed by them. The petitioners claim that respondent no.4 Institute has also sent various letters to respondent no.3 for disbursal of the scholarship amount due to the petitioners; however, the scholarship amounts have not been disbursed as yet.

6. It is not disputed that the petitioners are eligible for availing the scholarship under PMS-SC. However, it is contended on behalf of respondent no.3 that the maximum amount of scholarship has been restricted to the amounts as specified in the Notification dated 16.05.2016. This is a

small fraction of the fees payable to the respondent no. 4 institute.

7. It is further contended on behalf of respondent no. 3 that respondent no. 3 has not received the applications of the petitioners duly forwarded by the respondent no.4 institute. It is further stated that only those students who are eligible for scholarship under the PMS-SC for the year 2015-16 would be eligible for scholarship for the year 2016-17, as renewal cases.

8. The petitioners accept that only those candidates who were eligible for scholarship for the year 2015-16 would be eligible for the year 2016-17, as the course itself is for two years and the scholarship would be for the entire course; however, they dispute that the amount of scholarship payable is as specified in the Notification dated 16.05.2016.

9. It is also contended on behalf of respondent no.3 that this Court would have no jurisdiction to entertain the present petition as the PMS-SC is administered by the concerned State Governments and in this case the entire cause of action has arisen outside the National Capital Territory of Delhi.

10. In the aforesaid backdrop, the questions to be addressed are: (i) whether this Court has jurisdiction to entertain the present petition; and (ii) whether the amount of scholarship is the amount as fixed by respondent no.3 or as per the fees fixed for respondent no.4 institute.

11. Insofar as the question of jurisdiction is concerned, it is not disputed that the scheme in question (PMS-SC) is a centrally sponsored scheme. The State Governments may be canalizing agents, administering the disbursement of scholarship to eligible students, but the scheme is sponsored by the Central Government. It is also apparent that the controversy involved in the present petition relates to whether the petitioners are entitled to the fee fixed for their institute under the said scheme or the same is to be limited as

per the amounts fixed by respondent no.3. It is well settled that a Court where the whole or part of the cause of action has arisen would have the jurisdiction in the matter. Cause of action is defined as a bundle of facts that are necessary to be established in order to claim relief (**See:** ***A.B.C Laminart Pvt Ltd & Anr v. A.P.Agencies, Salem: (1989) 2 SCC 163***). Since, the controversy involved relates to a scheme framed by the Central Government, it is difficult to accept that no part of cause of action has arisen within the territorial limits of this Court. In ***Alchemist Limited And. Another v. State Bank of Sikkim & Ors.: (2007) 11 SCC 335*****,** the Supreme Court had observed that "*even if a small fraction of the cause of action arises within the jurisdiction of the court, the court would have territorial jurisdiction to entertain the suit/petition*". There may be cases where the Court concludes that it would be appropriate if another Court considers the disputes and by applying the principles of *forum non coveniens* refrains from exercising its jurisdiction. However, in the present case, learned counsel for respondent no.3 has not advanced any contention on the principle of *forum non conveniens* and has limited his preliminary challenge to the question whether the Court has jurisdiction to entertain the present petition.

12. In view of the above, this Court is not persuaded to accept that it does not have jurisdiction to entertain the present petition.

13. The next question to be considered is with regard to the quantum of scholarship to be disbursed under the PMS-SC.

14. Article V of the PMS-SC provides for the value of scholarship. The relevant extract of Article V of PMS-SC is quoted below:-

> "V. VALUE OF SCHOLARSHIP
>
> The value of scholarship includes the following for complete duration

of the course:-

(i) maintenance allowance,

(ii) reimbursement of compulsory non-refundable fees,

(iii) study tour charges,

(iv) thesis typing/printing charges for Research Scholars,

(v) book allowance for students pursuing correspondence courses,

(vi) book bank facility for specified courses, and

(vii) additional allowance for students with disabilities, for the complete duration of the course."

15. The learned counsel for the petitioner has also relied upon a letter dated 08.09.2015 issued by respondent no.1 to various State Governments and UT Administrations in connection with the PMS-SC. The relevant extract of the said letter relied upon by the petitioner is set out below:-

> "3.2 It has been observed that the fee component forms a substantial part of the Expenditure being incurred under this scheme. There has been quite an escalation in this component over the years, especially in the technical, medical and professional courses. It is requested that suitable Management Information System may be developed and introduced in your State/UT to keep a strict monitoring/control over this expenditure, with a view to ensure that only reasonable/genuine fee components are paid in accordance with the provisions of the scheme.
>
> 3.2.1 In order to have preliminary assessment of fee component, the details of break up of (i) Government Institutions (ii) Private professional Institutions directed to be mandatorily covered by Fee-fixation Committee (iii) Other Institutions including Deemed & Private Universities not covered by Fee-Fixation committee and Scholars covered for distance Education for 2014-15 (Actual) and 2015-16 (Anticipated) may please be furnished as per format at

Annexure-IV.

3.3 It may be ensured that fee claims of the Institutions whose fees are to be regulated by the Fee-fixation Committee in terms of Supreme Court orders in WPC 350 of 1993 in the Islamic Academy of Education and another Vs State of Karnataka and others. In case fee fixation committees have not been constituted they should be constituted immediately. The fee fixation work should be positively completed by 31.3.2016. In the absence of which the Central Government may fix rates for reimbursement of scholarship for such institutions from 1.4.2016.

3.3.1 The State may also like to examine whether rates fixed for institutions by the fee fixation committee can be made applicable for equivalent courses conducted by private/deemed universities and other private institutions not mandatorily covered by the fee fixation committee."

16. It is apparent from the above that the fee as fixed by the Fee Fixation Committee would be relevant for determining the fee component of the scholarship. The learned counsel appearing for respondent no.3 also did not dispute that the fee fixed by the Fee Fixation Committee would be applicable. He, however, contended that such fee should be fixed by Committees of the respective States disbursing the scholarship and not the States where the institutions are located. This contention is plainly unmerited. The fee for an institution would be required to be fixed by a Fee Fixation Committee of the State where the institution is located. The said institutions would not be bound by the fee fixed by State Governments of other states.

17. It is clear that the PMS-SC provides for reimbursement of the compulsory fee payable to the concerned institution where students are studying. This fee is obviously the fee fixed for that institution and not any

arbitrary amount. It has been clarified that in case of such institutions where the fee fixed by the Fee Fixation Committee is not applicable, the fee fixed by the Fee Fixation Committee in respect of equivalent courses for other institutions can be applied.

18. In the present case, the petitioners also pointed out that in the case of another student (one Mr Baidynath Kumar), respondent no.3 had remitted the amount of fees as fixed under the cover of the letter dated 05.09.2016 and not the amount as referred to in the Notification dated 16.05.2016.

19. Learned counsel for the petitioner also contended that the Notification dated 16.05.2016 was not applicable to the petitioners as the same related to "Post-Intermediate Scholarship Scheme" and the petitioners were claiming scholarship under the PMS-SC, which is a scheme of *Post Matric* - and not *Post-Intermediate* – Scholarships.

20. It is also relevant to observe that the advertisement/notice dated 19.02.2016 issued by respondent no.3 for inviting applications for scholarships also specifically mentioned that the applications were for a scholarship scheme at the rate recommended by Fee Fixation Committee of the concerned States. The relevant extract of the said advertisement is as under:-

> "Invitation of application for post matric Scholarship for financial year 2015-16
>
> Please pay attention: - The students belonging to Schedule Caste and Schedule Tribe studying in post matric courses within the state and outside State and concerned educational institution.
>
> See for on-line application and guideline: http://scstwelfare.bih.nic.in

> In compliance of instruction made vide letter no. 14011/01/2015 SCD-V dated 08.09.2015 of the Ministry of Social Justice and Empowerment under the post matric Scholarship Scheme at the rate recommended by Fee Fixation Committee of the concerned state, for the payment of Scholarship, applications are invited.
>
> xxxx xxxx xxxx xxxx
>
> (B) The compulsory fee determined by Scholarship Fee Fixation Committee of the concerned State shall be payable to the students. At the same time, as per the course, retention fee shall be payable at the rate determined by the Government."

21. The above extract also clearly indicates that the scholarship, inter alia, entailed payment of the fee fixed by the "concerned State"; which in this case would be the State of Haryana.

22. Insofar as the question regarding non receipt of applications relating to the petitioners is concerned, it does appear that there is some confusion as to how the said applications could be furnished. As per respondent no.3's letter/advertisement dated 19.02.2016, scholarships were to be granted for students who are admitted "*in government institutions within the State or outside the State or in institutions empanelled by the Department*". It is not disputed that it was subsequently clarified by respondent no.1 that there was no requirement that an institution must be empanelled with the concerned State Government. The learned counsel for the petitioners contended that respondent no.4 has been forwarding the applications of various students for scholarship but could not do so through the online process as it was not empanelled. This contention was also not controverted by the learned counsel for respondent no. 3.

23. At this stage, it is also necessary to note that Mr Shukla, the learned

counsel appearing for respondent no.1 had unequivocally stated that if the State Government processes the application of the petitioners, the Central Government shall reimburse the amount of scholarships disbursed.

24. In view of the above, it is directed that the petitioners may file their applications through respondent no.4, complete in all respects, with respondent no.3. Respondent no.3 shall process the same and may claim reimbursement from respondent no.1, for the amount disbursed to the petitioners.

25. The petition is disposed of with the aforesaid direction.

VIBHU BAKHRU, J

JANUARY 22, 2018
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