

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

WRIT PETITION NO. 3966 OF 2014

Pratikkumar Abhaykumar Hiras
and another.

Petitioners.

Versus

State of Maharashtra and others.

Respondents.

Ms. Kavita Bhale, Advocate for the petitioners.

Mr. R.B. Bagul, A.G.P. for the State/respondent Nos.1 & 2.

Mr. G.L. Deshpande, Advocate for respondent No.4.

**CORAM : T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ.**

Dated : 30 January 2019.

ORDER :-

1. The petition is filed for giving directions to respondents to give benefit of free-ship for entire course of education starting from the academic year from 2013-14, which according to the petitioners, is as per the policy of State Government. Both the sides are heard.

2. The submissions made and the record show that the petitioners were admitted to Engineering Course for the academic year 2013-14 and no fee was charged by College by showing that

they were entitled to benefit of Government Scheme of free-ship. Petitioner No.1 was claiming the benefit under Other Backward Class category and petitioner No.2 was claiming the same under Special Backward Class category.

3. Learned Counsel for the petitioners took this Court through the Government Resolution of 24 June 2013 of Social Justice Department of the State Government. In this Government Resolution the Government made clear that non creamy layer limit for reserved category was increased from Rs. 4,50,000/- to Rs. 6,00,000/- and that was in accordance with the policy decision taken by the Central Government which the State Government was following. In this Government Resolution, it was made clear that the students who had produced the record to show that for last consecutive three years the income of their family, parents was not more than Rs. 6,00,000/-, were entitled to get the non creamy layer certificate for getting the benefits. Learned Counsel for the petitioners submitted that in the present case, parents of both the petitioners were having the income which was less than Rs. 6,00,000/- and they had no other source of income and so they are entitled to get the benefit of free-ship.

The record is produced in respect of salary showing the income was above Rs. 5,00,000/-, but below Rs. 6,00,000/-.

4. On the other hand, learned Additional Government Pleader submitted that the aforesaid Government Resolution was only in respect of the certificate of non creamy layer and that could have been used by reservation class for getting benefit of reservation like for getting admission as reserved category candidate. Learned A.G.P. submitted that the Government Scheme of free-ship is separate and different and it can be found in Government Resolution dated 27.02.2013 and Circular dated 31.08.2013. This Court has carefully gone through these Government Resolution and Circular. The Circular dated 31.08.2013 shows that the Government had noticed that at the time of giving admission to the student of reserved category, the Colleges were not keeping in mind that free-ship benefit was only to those students whose parents had income below Rs. 4,50,000/- and this income of the parents which was there in the previous year, was required to be considered. But the Institutions were giving the benefit only on the basis of non creamy layer certificate. The Government had given direction to see that

alongwith non creamy layer certificate, the certificate of income of previous year needs to be considered, so that the benefit is given only to those students whose parents had yearly income below Rs.4,50,000/- in the preceding year.

5. A careful perusal of Circular and Government Resolution dated 27.02.2013 show that there is force in the submissions made by learned Additional Government Pleader. The record shows that the Government has made distinction between two things like giving benefit of reservation for admission and for that the income should be below Rs. 6,00,000/-, but for giving benefit of free-ship the income should be below Rs.4,50,000/-.

6. Learned Counsel for the petitioners placed reliance on the observations made by the Apex Court in the following cases:-

- (1) **T.R. Kapur and others Vs. State of Haryana**
(1987 AIR 415)
- (2) **Zile Singh Vs. State of Haryana & others.**
(2004) 8 SCC 1

7. Aforesaid cases are on totally different points and there is no question of giving retrospective effect in the present

matter and from the beginning the policy of the State Government appears to be as mentioned in the above-said Government Resolution and Circular of 2013. This Court holds that no relief can be granted in this petition. So, the petition is dismissed.

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE

vdd/