IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1332 OF 2016

[Shahababu Education Society, District - Akola and one .vs. Government of India and others]

....

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

....

Shri M.V. Samarth with Shri A.S. Dhore, Advocates for the petitioners,
Shri U.M. Aurangabadkar, Assistant Solicitor General of India with Mrs. M.R. Chandurkar, Advocate for respondent nos.1 and 2,
Shri N.S. Rao, A.G.P. for respondent nos.3 to 5.

....

Coram : R.K. Deshpande & Vinay Joshi, JJ.
Date : 20.06.2019.

Heard.

2. The Prime Minister's New 15 Point Programme for the Welfare of Minorities was announced in June, 2006 and it provides that a post-matric scholarship scheme for meritorious students from minority communities would be implemented. The objective of the scheme is to award scholarships to meritorious students belonging to economically weaker sections of minority community so as to provide them better opportunities for higher education, increase their rate of attainment in higher education and enhance their employability. The eligibility of students for such scholarship is contained in Clause (4) of the scheme which is reproduced below :

> *“**4. ELIGIBILITY***
> *Scholarship will be awarded to the students who have secured not less than 50% marks or equivalent grade in the previous final examination and the annual income of whose parents/guardians from all sources does not exceed Rs.2.00 Lakh.”*

3. As per the condition of scholarship, the course fee / tuition fee was required to be credited to the school, college and institution's bank account. The another condition was that the maintenance allowance was required to be credited to the student's bank account. There is a change in the condition introduced from the Academic Session 2014-15 and the course/tuition fees which were required to be credited in the account of the school / institution / college was modified and it was decided that it should be credited to the students' account directly under Direct Benefit Transfer (DBT) mode. This was communicated to the petitioners on 2.6.2014, which is the subject matter of challenge in this petition.

4. After issuing notice for final disposal of the matter on 23.02.2016, this Court passed an order on 15.06.2016, which runs as under :

> *"It appears that by the relevant Scheme that was relied on by the petitioners for seeking course fees/tuition fees to be credited in the accounts of the Schools, Colleges, Institutions and the maintenance allowance to be credited to the students' bank accounts, it is sought to be canvassed on behalf of the Union of India that by a Scheme that is subsequently framed, the amount of the course fees/tuition fees as well as maintenance allowance would be credited directly in the accounts of the students.*
>
> *If the course fees/tuition fees are credited in the accounts of the students, there is a likelihood that the students would not deposit the same with the Colleges and it would be difficult for the Colleges to run the Institutions. The maintenance fees are liable to be credited in the accounts of the students, but it does not prima facie appeal to us that the course fees/tuition*

> *fees should also be credited to the accounts of the students. We also do not find any reason in the new policy that is sought to be produced before us on behalf of the Union Government as to why the earlier policy of depositing the course/tuition fees in the accounts of the Colleges – Schools has been modified and the entire fees are sought to be deposited in the bank accounts of the students. There is a possibility of the students' mis-utilizing the amount that is credited in their accounts towards tuition fees/course fees.*
>
> *It is, therefore, necessary for the Union of India to explain.*
>
> *Stand over to 07.07.2016 for further consideration.*
>
> *The State Government should positively file the reply by then."*

5. Thereafter also on 27.7.2016, this Court passed the speaking order observing that *prima facie* this Court is not inclined to accept the statement that there could be a possibility of misappropriation, if only tuition fees of the approved students are deposited in the bank accounts of the Schools/Colleges. Again on 2-3 occasions, the matter was heard and the possibility of providing any working solution was explored without any effective result. We are therefore required to decide the matter on its own merits.

6. The only change, which is the subject matter of challenge, is that previously as per the condition of scholarship, an amount of course fees / tuition fees which was previously required to be deposited directly in the accounts of the Schools, Colleges or Institutions, is now to be deposited in the accounts of the students directly under the Direct Benefit Transfer (DBT).

7. According to Shri Samarth, the learned counsel appearing for the petitioners, the Scheme is for the benefit of the Schools, Colleges and Institutions also and the experience of the managements is that once the amount is deposited in the account's of the students, there is hardly any possibility of the Schools, Colleges and Institutions getting it reimbursed towards the course fees / tuition fees. The decision regarding the eligibility of the student is taken by the school / college / institution in the month of July while admitting the students and actual disbursement of amount is done in the months of November and December every year. The amount of tuition fees deposited in the accounts of the students is appropriated by them for their own personal benefit and management looses the amount of reimbursement of the tuition fees under the Scheme sponsored by the Central Government.

8. After hearing the learned counsels appearing for the parties, we find that the Scheme is essentially for the benefit of the meritorious students belonging to the economically weaker sections of minority communities and only such students, who are eligible in terms of Clause (4) reproduced above, get the benefit of it. We do not find that the Scheme is meant for the benefit of the Schools, Colleges or the Institutions. The reimbursement of fees is also to the students and the categorical statement made before us by learned A.S.G.I. appearing for the Union of India that the Schools, Colleges or Institutions are not prohibited from admitting the students after taking from them the tuition fees. It is open for them to refuse the admission to the

students who failed to pay the tuition fees at the time of admission. The argument that the Scheme is available only for the persons in Below Poverty Line (BPL) and therefore unable to pay the tuition fees at the time of admission also cannot be accepted for the reasons that the eligibility criteria in Clause (4) shows that the annual income of the parents from all sources should not exceed to Rs.2.00 Lacs.

9. Be that as it may, if the students seeking admission are unable to pay the tuition fees at the time of admission, the Schools, Colleges or Institutions have every right to refuse to grant admission so as to avoid the loss likely to be caused because of failure to get the reimbursement of tuition fees from the students or from the Central Government. If the policy of the Central Government is in any manner faulty or causes any inconvenience to the Schools, Colleges or Institutions, it is for the Union of India to take the care of the students or Schools, Colleges or Institutions and we cannot interfere in the policy decision. The writ petition is dismissed.

(Vinay Joshi, J.) (R.K. Deshpande, J.)

Gulande