

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.10.2019

DELIVERED ON : 15.10.2019

CORAM:

THE HON'BLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HON'BLE MR.JUSTICE N.SESHASAYEE

W.P.Nos.19141, 20814, 20837 of 2019
and WMP.Nos.18528, 18530, 20007, 20011,
20013, 20038, 20041 & 20043 of 2019

S.Subbiah, I.A.S (Rtd) ... Petitioner in W.P.No.19141/2019

1.S.Nandhini

2.M.Santhiya

3.S.Renukadevi ... Petitioners in W.P.No.20814/2019

1.M.Kabilan

2.S.Kavin Kumar ...Petitioners in W.P.No.20837/2019

Vs.

1.Ministry of Social Justice and Empowerment
rep.by its Secretary
Government of India,
Shastri Bhavan,
Dr.Rajendraprasad Road,
New Delhi-110 001.

2.The Secretary,
Ministry of Tribal Welfare Department
Government of India,
Shastri Bhavan,
Dr.Rajendraprasad Road,
New Delhi-110 001.

3.The Secretary
Ministry of Finance
Government of India,
North Block,
New Delhi-110 001.

4.The Secretary
Ministry of Human Resource Development
Department of Higher Education,
Government of India,
West Block-I, Wing-6, 2nd Floor,
R.K.Puram, New Delhi-110 066.

- 5.The Director,
Social Justice and Empowerment
Shastri Bhavan,
Dr.Rajendraprasad Road,
New Delhi 110 001.
- 6.All India Council for Technical Education,
Rep.by its Member Secretary,
Nelson Mandela Marg,
Vasant Kunj, New Delhi-110 070.
- 7.The Government of Tamil nadu,
Rep.by its Secretary,
Adi-Dravidar and Tribal Welfare Department
Chennai-600 009.
- 8.The Secretary,
Higher Education Department,
Government of Tamil nadu,
Fort St.George, Secretariat,
Chennai-600 009.
- 9.The Director,
Adi-Dravidar and Tribal Welfare Department,
Ezhilagam, Chennai-600 009.
- 10.The Commissioner of Technical Education,
Guindy, Chennai-600 025.
- 11.The Secretary,
Tamil Nadu Engineering Admissions, 2019,
Guindy, Chennai-600 025.
- ... Respondents 1 to 11 in W.P.Nos.19141,
20814, 20837 /2019
- 12.The Principal
Muthayammal College of Engineering,
Kakavery, Rasipuram
Namakkal District-637 408.

...12th Respondent in W.P.No.20814/2019 &
WP No.20837/2019

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in so far as note VI (iii) (a) in the Post Matric Scholarship Scheme April, 2018 dis-entitling the payment of scholarship amount to the students of management quota and the order of the 1st respondent in F.No.11036/09/2019 SCD-V Government of India, Ministry of Social Justice and Empowerment Department dated 11.06.2019 and the consequential order of the 9th respondent in Na.Ka.No.L1/10082/2018 dated 25.06.2019 and to quash the same and consequently to confirm the applicability of Scholarship Scheme for Management Quota (Category II) under Post Matric Scholarship Scheme 2018 from the academic year 2018-19 onwards.

For Petitioners in W.P.Nos.19141 & 20814/2019:

Mr.K.Doraisami, Senior Counsel
assisted by Mr.Muthumani Doraisami

For Petitioners in W.P.Nos.20837/2019:

Mr.V.T.Gopalan, Senior Counsel
assisted by Mr.S.Sivapandi

For Respondents in all W.Ps.:

Mr.Rabumanohar, Senior Panel Counsel
for R1 to R6 in WP Nos.19141/19

Mr.N.Ramesh, Sr.Panel Counsel
for RR1 to 6 in WP No.20314 & 20837/19

Mr.V.Kadhirvelu
Special Government Pleader for R7 to R11

C O M M O N O R D E R

M.SATHYANARAYANAN, J.

These writ petitions pertain to denial of scholarship to the students belonging to Scheduled Castes / Scheduled Tribes [in short "SC/ST"] community, who got admitted under Management Quota.

W.P.No.19141 of 2019

2.1. This writ petition is filed as a Public Interest Litigation by a retired officer of Indian Administrative Service. The petitioner would aver that in order to provide quality higher education to students belonging to SC/ST communities, the Central Government as well as State Governments introduced various welfare schemes / programmes. The State Government, with the aid from the Central Government, introduced a Scheme for granting scholarship to the students belonging to SC/ST community, who are pursuing their higher studies in Government and Self-Financing Institutions in order to provide them an easy access to higher education.

2.2. The scheme of scholarship was granted to students belonging to SC/ST community studying in Government and Government Aided Institutions provided the annual income of their parents/guardians did not exceed Rs.50,920/- per year. Subsequently, vide G.O.Ms.No.6, Adi Dravida Welfare Department dated 09.01.2012, the Government modified the eligibility criteria to the effect that scholarship may be granted to the students belonging to SC/ST community studying in free and payment seats in Self-Financing Institutions from the year 2011-2012 onwards for all the approved courses in respect of non-refundable compulsory fees (Enrolment, Registration, Tuition, Games, Union, Library, Magazine, Medical Examination and such other fee compulsorily payable by the students to the Institution or University/Board) as per the rates fixed by the Fee Fixation Committee, headed by a retired Judge of this Court,

subject to the condition that the annual income of the parents / guardians does not exceed Rs.2.50 lakhs, in terms of the guidelines prescribed by the Government of India.

2.3. The Government vide G.O.Ms.No.92, Adi Dravida and Tribal Welfare Department dated 11.09.2012, laid down modalities/procedure for payment of scholarship and as per Clause-8, Self - Financing Institutions were restrained from collecting any fees from the students belonging to SC/ST communities. It is also pointed out by the petitioner that insofar as the State of Tamil Nadu is concerned, from the year 2012-2013 onwards, SC/ST students are being paid scholarship for both under Government as well as Management Quota (Category-II).

2.4. The Ministry of Social Justice and Empowerment, Government of India, has formulated a Centrally Sponsored Scheme called Post Matric Scholarship Scheme for students belonging to SC/ST communities with effect from April 2018. Clause-III of the said Scheme speaks about the conditions of eligibility of students as follows:

"III.Conditions of eligibility of students:

(i) The scholarships are open to nationals of India.

(ii) These scholarships will be given for the study of all recognized post-matriculations or post-secondary courses pursued in recognized institutions / Universities / Colleges, where PMS-SC can be availed for intermediate, graduate, post graduate courses and include the following:

a.Institutions of National Importance ;

b.Central University / State University / Autonomous colleges recognized by UGC and Universities / Colleges recognized under Section 2(f) and 2(b) of UGC Act;

c.Deemed Universities;

d.Private Universities recognized by State / Centre with 'A' level or equivalent accreditation by NAAC, MBA;

e.Private Professional Institutions affiliated to a recognized Central / State University and covered by Fee Fixation Committee as mandated by Supreme Court;

Clause VII-Selection of candidates

1.All the eligible Scheduled Caste candidates will be given scholarship subject to the application of Means Test prescribed in this Scheme.

Clause V- Means Test

Scholarships will be paid to the students whose parents/guardians' income from all sources does not exceed Rs.2,50,000/-."

2.5. In G.O.Ms.No.39, Adi-Dravidar and Tribal Welfare Department dated 09.07.2008, the Government of Tamil Nadu has adopted the said Central Scheme and in paragraph No.2, it is stated as follows:

"2. In the letter read above, the Government of India, Ministry of Social Justice and Empowerment has communicated the revised guidelines for award of Post Matric Scholarship to the student belonging to Scheduled Castes (Adi-Dravidars in Tamil Nadu) under centrally sponsored scheme with effect from April 2018. The Government after careful consideration have decided to adopt and notify the said revised guidelines appended to this order in toto for sanction of Post Matric Scholarship to the Adi-Dravidar students in this state with effect from the academic year 2018-19"

2.6. Subsequently, a clarification was sought by the Tamil Nadu Adi Dravida and Tribal Welfare Department, vide communication dated 13.07.2018 addressed to the first respondent as to the contradiction between Clause-III(e) and Clause-VI(a) (iii) of the said guidelines and it was responded by the first respondent, vide communication dated 24.08.2018 and it is clarified in Paragraph Nos.5 and 6 of the said communication as follows:

"5....This Department is in the process issuing clarifications on the issue and is of the view that "In each of such seats which are retained by the institutions, if the admission process is merit based and the fee payable by the students to these institutions is restricted to the fees as payable against the 'Government Quota' fees as fixed by the Fee Fixation Committee, then the admission will not be considered as Management Quota for the purpose of this scheme". This will ensure that students who are admitted following a due merit based against the seats required by the institutions are not denied opportunity for getting the scholarship under the scheme and at the same time scholarship reimbursed is restricted to the fees being charged under Government Quota in the same institution.

6.I request you to confirm if the above clarification proposed to be issued by the Department at para-5 is in consonance with the extant policies of MHRD."

2.7. It is further averred by the petitioner that the authorities concerned did not disburse the Post Matric Scholarship for SC/ST students within time and therefore, a Public Interest Litigation in W.P.No.1543 of 2018 was filed and vide order dated 26.10.2018, directions were issued for expeditious disbursal of the said scholarship and in compliance of the same, the seventh respondent had passed G.O.Ms.No.45, Adi Dravida Welfare Department dated 27.02.2019. In terms of the above cited communications of the first respondent and the clarifications issued, SC/ST students admitted under Management

Quota, have not been provided with scholarship and therefore, they submitted a representation to the seventh respondent and it was rejected, vide communication dated 11.04.2019 in Na.Ka.No.L1/5777/2019. Some of the aggrieved students also filed W.P.Nos.12827 and 12899 of 2019 and an interim order of protection came to be passed in their favour.

2.8. The petitioner would further state that despite subsistence of interim order, the ninth respondent has issued instructions dated 28.05.2019 in the webportal that ST students admitted under Management Quota during 2018-19 alone will be paid scholarship and in this regard, Cont.P.No.905 of 2019 was also filed and notice was ordered. Pendency of the contempt petition, communication of the first respondent dated 11.06.2019 was produced before the Court and the Court, taking note of the inconsistent stand, especially taking into consideration of the fact that students admitted under Post Matric Scholarship Scheme as early as during the year 2018-2019 will be gravely affected, suo motu impleaded the Under Secretary of the first respondent and further directed the said official to appear in person. In this writ petition, the petitioner makes a challenge to Para VI (iii) (a) of the Post Maric Scholarship Scheme, April 2018 and the further communication of the first respondent dated 11.06.2019.

W.P.No.20814 of 2019

3. W.P.No.20814 of 2019 is filed by three students challenging the very same communication of the first respondent dated 11.06.2019 and all the three petitioners were admitted under Management Quota during the year 2018-19 in the 12th respondent institution and they belong to Scheduled Caste Community.

W.P.No.20837 of 2019

4. W.P.No.20837 of 2019 is filed by two students belonging to Scheduled Caste Community and got admitted under Management Quota in the 12th respondent institution and they also made a challenge to the very same communications, which are the subject matter of challenge in W.P.No.19141 of 2019 [PIL].

5. The first respondent in W.P.No.19141 of 2019 [PIL] has filed a counter affidavit dated 17.09.2019 and took a stand that Post Matric Scholarship Scheme for SC students [PMS-SC] and Post Matric Scholarship Scheme for ST students are two separate Schemes of the Government of India implemented by two different Ministries i.e., Ministry of Social Justice & Empowerment / first respondent herein and the Ministry of Tribal Affairs / second respondent herein. PMS-SC scheme is a Centrally Sponsored Scheme implemented by State Governments / Union Territory Administrations and under the said scheme, State Governments and Union Territory Administrations receive central assistance from the Government of India for the total expenditure under the Scheme, over and above their respective committed liability. In terms of the guidelines of PMS-SC Scheme, scholarship is paid to the students, whose parents/guardians' income from all sources does not exceed

Rs.2.5 lakhs per annum, effective from the selection year 2013-2014. It is further averred by the first respondent in the counter affidavit that in terms of PMS-SC and vide communication of the first respondent dated 03.05.2018, the fee claimed against Management Quota seats in any Institution / University will not be reimbursed and that modalities for implementation of the scheme as per the regulation of PMS-SC scheme vest with the State Government only. The first respondent also took a stand that it is also open to the State Governments / Union Territory Administrations to give additional benefits over and above provisioned under the scheme to the beneficiaries from their own sources.

6. The first respondent, as to the belated / non-disbursal of the said scholarship, would state that the entire Central Assistance upto the period 2017-2018 has already been disbursed by the State Governments for using the same to the deserving students and as regards disbursal for the year 2018-2019, the Government of Tamil Nadu was requested to clarify whether the proposed demand of the State is according to the revised guidelines and they are yet to respond and further they have not submitted any proposal for the release of funds for the period 2019-2020. The clarification sought for by the State Government was also responded by sending a communication dated 11.06.2019 to follow the instructions communicated, vide revised guidelines dated 03.05.2018. In sum and substance, it is the stand of the first respondent that the Post Matric Scholarship Scheme is applicable only to SC/ST students admitted under Government Quota and not under Management Quota. It is also revealed from the counter affidavit of the second respondent that as far as the said Scholarship Scheme is concerned, they deal with the issue pertain to ST Students.

7. The ninth respondent in W.P.No.19141 of 2019 has filed a counter affidavit dated 23.09.2019 and took a stand that in terms of the guidelines issued by the Government of India dated 01.04.2018, several changes have been made to eligibility, modalities for application, processing and disbursement under the Scheme and the Government of Tamil Nadu, as an implementing agency, took a decision to adopt and notify the revised guidelines of the first respondent in toto for sanction of Post Matric Scholarship to Adi Dravidar students in the State with effect from the academic year 2018-19 vide G.O.Ms.No.39, Adi Dravidar & Tribal Welfare Department dated 09.07.2018. It is the stand of the ninth respondent as to the belated / non-disbursal of scholarship that the State of Tamil Nadu has received the pending central assistance of Rs.822.91 Crores and Rs.162.87 Crores under the Scheme for the years 2016-17 and 2017-18 respectively and it has cleared all scholarship dues as recommended by District Officers / Administrative educational heads of the institutions and disbursal is going on and the process will be completed soon. It is also the stand of the ninth respondent that the expenditure towards additional beneficiaries under Management Quota is to be borne by the State in addition to their share and if the State includes Management Quota seats under the scheme, it would not get any Central share

for the additional expenditure besides State's share and implementation expenses. Thus, it is the stand of the ninth respondent that they are following the guidelines of the first respondent in toto and they may not be able to incur any additional liability as to the payment of Post Matric Scholarship Scheme to students belonging to SC/ST community, who are admitted under Management Quota.

8. The petitioner in W.P.No.19141 of 2019 has filed a rejoinder and apart from reiterating the earlier stand would aver that State Governments and the Central Government cannot plight the life and destiny of the students belonging to SC/ST communities by taking a contradictory stand and on account of denying scholarship to students belonging to SC/ST community admitted under Management Quota, that too after completion of the academic year, would create extreme distress, hardship and financial difficulty and it also negates the avowed objective of upliftment of Constitutional Guarantee.

9. Mr.V.T.Gopalan, learned Senior Counsel assisted by Mr.Sivapandi, learned counsel appearing for the petitioners in W.P.No.20837 of 2019 and Mr.K.Doraisami, learned Senior Counsel assisted by Mr.Kandan Doraisami, learned counsel appearing for the petitioners in W.P.Nos.19141 and 20814 of 2019 would submit that the purpose of Post Matric Scholarship Scheme is to uplift the students belonging to SC/ST communities to come up in their life, especially taking into consideration their poor economic background and it is also in the nature of fulfillment of social objectives. It is the further submission of the respective learned Senior Counsel appearing for the petitioners that the 12th respondent institution though a private institution, is recognized by the All India Council for Technical Education (AICTE) and affiliated to Anna University and as long as the admission of the students is done under Management Quota, there cannot be any distinction in respect of students belonging to SC/ST communities, whose parents are poor and also economically weaker. It is also pointed out by the respective learned Senior Counsel appearing for the petitioners that AICTE, vide communication dated 17.05.2019 in F.No.AICTE/AB/Advisor-II/2019, has also clarified that the students admitted under Management Quota (Category-II) are also eligible for Post Matric Scholarship Scheme from 2018 -19 onwards and therefore, their scholarship towards tuition fee should be as per the Committee on Fixation of Fee duly mandated by the Supreme Court and the tuition fees for Government Quota (Category-I) is Rs.50,000/- and for Management Quota (Category-II) is Rs.85,000/- and since the said agency grants approval for the engineering courses run by technical institutions, their recommendation is binding upon the first respondent and however, the first respondent has taken a tough stand that SC/ST students admitted under Management Quota are ineligible for Post Matric Scholarship.

10. The respective learned Senior Counsel appearing for the petitioners also pointed out the practical difficulties faced by Self-Financing Engineering Colleges and would submit that in

terms of the communication of the first respondent dated 11.07.2018, payment of fees would not be insisted in respect of students belonging to SC/ST community at the time of admission and it is also reiterated by the seventh respondent in G.O.Ms.No.92, Adi Dravidar and Tribal Welfare Department dated 11.09.2012 and despite strict adherence of the said communication and the Government Order, timely disbursal of the said amount have not been made to the educational institutions and it is also adding up to the difficulties.

11. In sum and substance, it is the submission of the respective learned Senior Counsel appearing for the petitioners that there is no rationale / nexus sought to be achieved by prescribing the criteria as to the ineligibility of SC/ST students who are admitted under Management Quota to avail the benefits of Post Matric Scholarship Scheme and behind the said scheme, social objective is also involved to uplift the students belonging to SC/ST communities and to improve their educational qualification and standard to come up in their life and by adopting rigid stand, the first respondent intend to destroy the career of the said students, who are admitted from poor economic background and prays for setting aside the impugned communication and allowing of the writ petitions with a consequential direction for disbursal of Post Matric Scholarship for SC/ST students who got admitted under Management Quota in Unaided Private Engineering Colleges as well as in Deemed Universities.

12. Per contra, Mr.Rabu Manohar, learned Senior Panel Counsel appearing for the respondents 1 to 6 has invited the attention of this Court to the counter affidavit of the second respondent in all the three writ petitions and would submit that the second respondent is the Nodal Agency for implementation of schemes like Post Matric Scholarship Scheme and it has been introduced exclusively for ST students and thereby SC students are not eligible for Post Matric Scholarship Scheme and the said scheme for SC students is implemented by the first respondent.

13. The learned Senior Panel Counsel appearing for the respondents 1 to 6 and Mr.V.Kathirvelu, learned Special Government Pleader appearing for the respondents 7 to 11 would submit that it is a policy decision of the Government by taking into consideration all the relevant aspects and the scope and interference with regard to the said policy decision should be a rare exercise and it is also extremely limited and further pointed out that in reality, students admitted under Management Quota are less meritorious than students admitted under Government Quota and some of them would not have even obtained the minimum cut off marks and got admission and in order to encourage the SC/ST students with a high academic performance to perform better, a policy decision was brought forth by the first respondent to restrict the disbursal of Post Matric Scholarship to the students belonging to SC/ST communities admitted under Government Quota and it cannot be faulted with.

14. The learned Senior Panel Counsel and the learned Special Government Pleader appearing for the respondents 1 to 11 respectively would further submit that the State Government infact sought clarification from the first respondent and it was also clarified that the scheme of scholarship is applicable to SC/ST students admitted under Management Quota and the State Government also took a fair decision to adopt the guidelines in toto. It is further pointed out that if the State Government want to extend the benefits to SC/ST students admitted under Management Quota in Self-Financing Educational Institutions as well as in Deemed Universities, it has to generate funds of their own and in the light of financial and other difficulties, it will be extremely difficult to adopt such a course and there may not be any positive order compelling the Government to do so and therefore, they pray for dismissal of these writ petitions.

15. In response to the said submission, the respective learned Senior Counsel appearing for the petitioners have invited the attention of this Court to the Division Bench judgment of this Court in Branch Manager, Indian Overseas Bank v. A.Ravi and Others [CDJ 2014 MHC 2802], wherein the issue pertains as to whether the students admitted under Management Quota is eligible to get educational loan? The Division Bench has taken into consideration the recommendations of IBA (Indian Bank Association) with regard to Eligibility Criteria, Expenses considered for sanction of loan, Quantum of Finance and the Security to be made for sanction of Education Loan and found that in the said guidelines, nowhere it is stated that educational loan will be paid only to those, who have secured 60% and more marks and dismissed the writ appeal and confirmed the order passed by the Single Judge. It is the further submission of the respective learned Senior Counsel appearing for the petitioners that in almost in similar facts and circumstance, a Division Bench of this Court has repelled the stand taken by a National Bank as to the non-disbursal of educational loan to students who secured less than 60% marks and admitted under Management Quota and would further add that there cannot be any presumption that students admitted under Management Quota are meritorious for the reason that depending upon proximity of the College to the residence of the students, facilities available, quality of teaching and other facts and circumstances, students may choose to get admitted in Unaided Private Institutions / Deemed Universities under Management Quota and as such, it cannot be faulted with and therefore, pray for allowing of the writ petitions.

16. This Court paid it's best attention and anxious consideration to the rival submissions and also perused the entire materials placed before it.

17. Orders in these writ petitions were reserved on 23.09.2019 and thereafter the matter was listed on 01.10.2019 for "Clarification" seeking additional particulars as to the academic performance of the petitioners in W.P.Nos.20814 and 20837 of 2019 and memos were filed on 04.10.2019 and orders were

reserved on that day. The memo of the petitioners in W.P.No.20814 of 2019 would disclose that the petitioners therein had secured 52%, 63% and 75% respectively in Higher Secondary Examination and likewise, the memo of the petitioners in W.P.No.20837 of 2019 would disclose that the petitioners therein had secured 59% and 70% respectively in Higher Secondary Examination.

18. It is not in dispute that the first respondent is the nodal agency with regard to the disbursal of Post Matric Scholarship to SC students and the second respondent is the nodal agency for disbursal of Post Matric Scholarship for ST students. It is also not in dispute that prior to the formulation of Centrally Sponsored Scheme for disbursal of Post Matric Scholarship by the first respondent with effect from 01.04.2018, the said benevolence was granted to SC/ST students in terms of G.O.Ms.No.92 of the seventh respondent dated 11.09.2012. Paragraph No.5 of the said Government Order makes it clear that students studying in Self-Financing Colleges as well as Self-Financing courses are also eligible to get scholarship with a further direction that the fee fixed on the SC/ST students by the Fee Committee for the Self-Financing Institutions have not been collected from the said students at the time of admission and the resultant being, it will be reimbursed to the said educational institutions by the State Government. However, in the light of the above cited Scholarship Scheme of the first respondent dated April, 2018 and in the Note appended to Clause (VI)(iii) - Compulsory non-refundable fees but will not include one-time upfront payment fees for full course, "Payment of one time lump sum fees for full course in Government and Private Institutions shall not be eligible. The fees claimed against management quota seats spot admission seat in any Institution/University will not be reimbursed".

19. It is also to be noted at this juncture that Clause-III of the Post Matric Scholarship Scheme speaks about Conditions of eligibility of students and it include Deemed Universities and Private Universities recognized by State / Centre with 'A' level or equivalent accreditation by NAAC, NBA. Clause XVI of the Scheme speaks about Effective Implementation / Alteration of Modalities and as per sub-clause (b), "The Centre may call for reports from time to time and issue guidelines for effective implementation. The guidelines and eligibility norms of the scheme may also be changed by Central Government as deemed necessary".

20. It is also not in dispute that the State Governments and Union Territory Administrations issues 100% Central Assistance to meet the total expenditure for disbursal of scholarship under Post Matric Scholarship Scheme to the students belonging to SC Community and Clause XV of the said Scheme also makes it clear.

<https://hcservices.ecourts.gov.in/hcservices/>

21. The seventh respondent, after receipt of the said guidelines, also issued G.O.Ms.No.39 dated 09.07.2018 requesting

the District Collectors to communicate the appended guidelines to all the educational institutions in the Districts for strict compliance. The Additional Chief Secretary to the seventh respondent sought clarification, vide Letter No.9158/ADW-3/2018-1 dated 13.07.2018 from the fifth respondent, namely The Director, Ministry of Social Justice and Empowerment, Government of India, New Delhi and it is relevant to extract the following:

"1..(e)"Private Professional Institutions affiliated to a recognized Central / State University and covered by Fee Fixation Committee as mandated by Supreme Court". Till now in Tamil Nadu, the PMS-SC was allowed to students under management quota covered by Fee Fixation Committee approved by Government. As such, it is presumed that the "Management Quota seats mentioned in VI(iii)(a) Note means those seats are not governed by the Government approved Fee Fixation Committee i.e., Management Quota seats covered by Government Approved Fee Fixation Committee are allowed under Post Matric Scholarship Scheme. This may be kindly confirmed.

2.The Self-Financing Arts & Science and Teachers Training Colleges carry out admission by the Management. Hence, there is no Government Quota in these colleges (Ex. B.A., B.Sc., B.Com., B.Ed., Diploma in Elementary Education etc.). These courses in Arts and Science Streams / Teachers Education Streams are part of Post Matric Scholarship Scheme and should be eligible for sanction of Post Matric Scholarship. The State's presumption may be confirmed.

3.Admission is carried out by the management of the self financing Polytechnic Colleges based on merit of the applications received by them in Tamil Nadu. They are giving 50% for Government quota and 50% for Management quota. It is presumed that the courses in Polytechnic stream are eligible for sanction of PMS-SC. This may kindly be confirmed.

4.Though the Private and Deemed Universities are listed as eligible institutions in the new guidelines, there are no Government quotas in those institutions. Also private / deemed universities do not come under the purview of fee fixation committee. It may be clarified whether fees claimed in respect of management quota seats in deemed Universities / Private Universities are to be reimbursed or not."

The said clarification was sought for to find out whether the fees claimed in respect of Management Quota seats in Deemed Universities are to be reimbursed or not?

No.16-1/2018-NS-I, in response to the letter received from Tiruchi Siva, Member of Parliament (Rajya Sabha) regarding Post Matric Scholarship Scheme for SC students for the academic year 2018-19 and in Paragraph No.2, it is clarified that,

"2. In this regard, the matter was examined and it is clarified Ministry of Human Resource Department, through All India Council for Technical Education (AICTE), only approves sanctioned intake based on the application made by the College under the extant regulation. Further, students admitted under Category-II based on merit, fair and transparent process, could be considered eligible for Post Matric Scholarship and their scholarship towards tuition fee restricted to Government quota fees (Category-I).

23. The first respondent, vide communication dated 24.08.2018 in D.O.No.14011 /1 / 2018-SCD-V(pt) addressed to the eighth respondent, namely Secretary, Department of Higher Education, New Delhi and made the following clarification:

"5. In view of above, there is confusion whether the seats retained by the Institutes are Management Quota seats or not. This Department is in the process issuing clarifications on the issue and is of the view that "In case of such seats which are retained by the institutions, if the admission process is merit based and the fee payable by the students to these institutions is restricted to the fees as payable against the Government Quota fees as fixed by the Fee Fixation Committee then the admission will not be considered as Management Quota for the purpose of this scheme". This will ensure that students who are admitted following a due merit based against the seats retained by the institutions are not denied opportunity for getting the scholarship under the scheme and at the same time scholarship reimbursed is restricted to the fees being charged under Government Quota in the same institution."

Thus the clarification is that if admission to private institution is made on merit based under Government Quota, admission will not be considered as Management Quota. As a natural corollary, if the students on their own volition, got admitted in private educational institutions under Management Quota, they are not eligible to get scholarship.

24. A question also arose as to the applicability of G.O.Ms.No.52, Adi-Dravidar and Tribal Welfare (AD.W) Department dated 11.08.2017 in respect of students belonging to SC/ST communities, both in respect of free and payment seats in Self-Financing Institutions. A Single Judge of this Court, vide order dated 20.02.2019 in W.P.No.24109 of 2017 [P.Karuppasamy v. The Government of India, Represented by its Secretary, Adi Dravidar and Tribal Welfare Department, Chennai-9 and 3 others], after taking note of the order of the Division Bench of Madurai Bench of this Court dated 24.02.2019 made in W.P.(MD)Nos.17694

and 18385 of 2017, held that the said Government Order is having prospective effect from the academic year 2018-2019 onwards.

25. Attention of this Court was also invited to G.O.Ms.45, Adi-Dravidar and Tribal Welfare (A.D.3) Department dated 27.02.2019 as to the release of Scholarship for the year 2017-18 of Rs.980.19 Crores and in paragraph No.4(7), it is stated that "For the academic year 2018-2019, the details regarding the educational fees payable to the students getting trained in self financing colleges under the Management Quota in the 2nd and subsequent years may be obtained and sent to the Government".

26. The petitioners in W.P.No.20814 of 2019 also received a communication from the ninth respondent dated 11.04.2019 in Na.Ka.No.L1/5777/2019 by drawing their attention to the guidelines of the first respondent as to their inability to avail scholarship as they are admitted under Management Quota and further informed them that a clarification in this regard is also sought from the Government and so far they are yet to be favoured with any response.

27. The Secretary, Association of Management of Coimbatore, Anna University Affiliated Colleges, Erode has sought clarification as to the availment of Post Matric Scholarship Scheme by SC/ST students admitted under Management Quota, vide communication dated 09.05.2019 from AICTE, who in their response dated 17.05.2019 in F.No.AICTE/AB/Advisor-II/2019, has stated that students admitted in Self-Financing Institutions in the State of Tamil Nadu are fulfilling the eligibility conditions stipulated in the recent guidelines notified by the first respondent with an objective to provide financial assistance to the SC students to enable them to complete their higher education and they are fully entitled for the reimbursement of the tuition fees irrespective of the quota of their admissions. It is further stated in the said communication that in respect of students admitted in Deemed Universities, which do not come under Fees Fixation Committee duly mandated by the Supreme Court, are eligible for tuition fee reimbursement. It is further clarified in the said communication that the students admitted under Management Quota (Category-II) monitored by "The Committee to regulate & Monitor the admission of students to professional courses" duly mandated by Supreme Court are eligible for Post Matric Scholarship scheme for SC students from 2018-19 onwards and their scholarship towards tuition fee should be as per the Committee on Fixation of Fee duly mandated by Supreme Court where the tuition fees for Government Quota (Category-I) is Rs.50,000/- and for Management Quota (Category-II) is Rs.85,000/-.

28. The webportal of the first respondent would also indicate that as per Government of India PMSS revised guidelines April 2018 and G.O.(Ms) No.33, ADW(3) dated 09.07.2018, from the academic year 2018-2019, Self-Financing Colleges can apply scholarship for SC and SCC students studying in Arts and Science / Educational courses / Diploma courses under both Government

and Management Quota.

29. It is pertinent to point out at this juncture that the first respondent, once again in their communication dated 11.06.2019 in F.No.11036/09/2019 SCD-V, after referring to W.P.Nos.12827 of 2019 and 12899 of 2019 informed the ninth respondent as to the ineligibility of the students admitted under Management Quota and it is relevant to extract Paragraph Nos. 2 and 3 of the said communication:

"2. In this context, you are informed that Ministry of HRD was requested, vide mail dated 7.5.2019 to provide their opinion on the issue of PMS-SC Scholarship to students under Management quota in Tamil Nadu. Ministry of HRD vide OM dated 14.5.2019 (copy at Annexure-II) has stated that AICTE approves the sanctioned intake based on the application made by the college under the extant regulation and the students admitted under Category II in Tamil Nadu, based on merit, could be considered eligible for Post Matric Scholarship and their tuition restricted to Govt. Quota fees. The MHRD, however, left the final decision to be taken in the matter on Ministry of SJ & E.

3. In this regard, it is informed that as per existing PMS-SC guidelines of this Ministry issued vide communication dated 03.05.2018 (copy at Annexure III) the fee claimed against management quota seats in any Institution / University will not be reimbursed. Since Post Matric Scholarship Scheme is a Centrally Sponsored Scheme of the Department of SJ&E and States/UTs are implementation agencies, therefore, you are requested to place the position before the Hon'ble Court as per the regulation of PMS-SC Scheme and also safeguard the interest of Govt. of India."

30. As already noted, Post Matric Scholarship Scheme of the first respondent for SC students is a 100% sponsored scheme funded by the Central Government and its disbursal / nodal agencies are State Governments and Union Territory Administrations. It also appears from the counter affidavit of the ninth respondent that they are having some financial difficulties to meet out the expenses relating to disbursal of the said scholarship to SC students admitted under Management Quota in Self-Financing Educational Institutions. The first respondent has repeatedly stated that they will not and rather cannot disburse/reimburse the scholarship amount in respect of SC students admitted under Management Quota in Self-Financing Institutions.

31. An incidental question arose for consideration is whether the first respondent can be compelled to change their policy in the form of positive direction to pay/reimburse scholarship to SC students admitted under Management Quota or reimburse scholarship amount to Self-Financing Educational Institutions to SC students admitted under Management Quota.

32. In *State of Kerala v. Kumari T.P.Roshana and Another* [AIR 1979 SC 765 : (1979) 1 SCC 572], which arose out of a Full Bench decision of Kerala High Court, the direction given by the High Court for holding entrance examination on the footing that there was disparity in the stand of examination and it is relevant to extract Paragraph No.15 of the said decision:

"15. We are not impressed much with the surmise which colours the reasoning of the Full Bench and the learned single Judge that there is such substantial difference in the pre-degree courses and evaluations between the sister universities within the same State that the breach of Article 14 by equal treatment of the marks unequally secured by examinees in the two universities may be spelt out. It is trite law that every inconsequential differentiation between two things does not constitute the vice of discrimination, if law clubs them together ignoring venial variances. Article 14 is not a voodoo which visits with invalidation every executive or legislative fusion of things or categories where there are no pronounced inequalities. Mathematical equality is not the touchstone of constitutionality. This Court in *Triloki Nath Khosa* (1974) 1 SCC 19 cautioned:

"Mini-classifications based on micro-distinctions are false to our egalitarian faith and only substantial and straightforward classifications plainly promoting relevant goals can have constitutional validity. To overdo classification is to undo equality."

In the same ruling there was a caveat entered by Chandrachud, J. (as he then was) against "a charter for making minute and microcosmic classification". What is more, a large latitude is allowed in this area to the State to classify or declassify based on diverse considerations of relevant pragmatism, and the judiciary should not "rush in" where the executive warily treads....We are aware that there are Universities and Universities, that gross divergences among them exist affecting the quality of the teaching and the marking, the anomalies of grading and the absurdity of equating the end products on the blind assumption that the same marks mean the same excellence. But not glib surmises but solid facts supply the sinews of discriminatory inequality or equality."

33. In *Chitra Ghosh v. Union of India* [AIR 1970 SC 35 : (1969) 2 SCC 228], it was recognized that it is for the Government to prescribe the eligibility criteria.

34. A catena of decisions rendered by the Hon'ble Supreme Court with regard to formulation of policy by Government is that the Government should have a strong hand to lay down its policy and it is subject to permissible parameters of the Constitution of India.

35. In A.Kasinathan v. The Branch Manager, Canara Bank, Madurai [CDJ 2012 MHC 2040], the eligibility to avail educational loan by students who got admission under Management Quota, but secured less than 60% marks as stipulated by the Banks as per the revised guidelines of the Bank came up for consideration and a Division Bench of Madurai Bench of Madras High Court, while affirming the decision of the Single Judge as to their ineligibility to avail educational loan, in paragraph No.39, observed as follows:

"39....As already pointed out by the learned Single Judge, assuming that these directives have statutory force, then IBA, body of experts, has taken a decision to fix the cut-off mark as 60% for those who secured admission under Management Quota. Sitting in writ jurisdiction, Court cannot issue a direction to the respondents to dilute the said policy."

36. The seventh respondent has sought clarification as to the formulation of April 2018 policy by the first respondent and the first respondent, in more than one occasion, reiterated the stand that SC students admitted under Management Quota in Self-Financing Educational Institutions are ineligible to avail Post Matric Scholarship and left with the wisdom of the State Governments to accommodate them from their own sources. However, the ninth respondent, in the counter affidavit, took a stand that in the light of the financial implications, it may be difficult for them to concede to the request made by SC students, who got admission under Management Quota to get Post Matric Scholarship.

37. It is also to be noted at this juncture and as pointed out by the respective learned Senior Counsel appearing for the petitioners that it cannot be said that all the students admitted under Management Quota in Self-Financing Educational Institutions, are less meritorious for the reason that depending upon the location of educational institutions nearer to their residence, place of abode, quality of teaching, faculty members and other facilities available, they may choose the institutions. Therefore, this Court is of the considered view that the first respondent may revisit the said issue once again in the light of this fact and after all, upliftment of SC/ST students is an avowed social objective and to avail Post Matric Scholarship, economical criteria is also fixed and therefore, there is no likelihood of misuse or abuse also.

38. The Constitution of India also guarantees social upliftment of persons belonging to SC/ST communities and it is always the endeavour of the Central Government and State Governments to uplift their standard, both economical and education wise.

39. In the light of the limited scope of judicial review available to this Court in respect of policy decision formulated by the first respondent, it is not in a position to quash the impugned policy decision/communication of the first respondent.

40. In the result, these Writ Petitions are dismissed. The Central Government and State Governments de hors the dismissal of these writ petitions, especially the first respondent may reconsider the policy decision as to the extension of benefits of Post Matric Scholarship Scheme to the meritorious SC/ST students, who are admitted under Management Quota in Self-Financing Educational Institutions in the light of the aforesaid observations. The said exercise shall be carried out as expeditiously as possible, preferably within a period of twelve weeks from the date of receipt of a copy of this order. The Government of Tamil Nadu, in the light of the order dated 26.10.2018 made in W.P.No.1543 of 2018 (DB) [D.Ashok Kumar v. The Director, Union of India, Social Justice and Empowerment, Shastri Bhavan, New Delhi and 5 Others], shall take all necessary steps to comply with the said order. No costs. Consequently, connected miscellaneous petitions are dismissed.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

jvm

To

- 1.The Secretary
Ministry of Social Justice and Empowerment
Government of India,
Shastri Bhavan, Dr.Rajendraprasad Road,
New Delhi-110 001.
- 2.The Secretary,
Ministry of Tribal Welfare Department
Government of India,
Shastri Bhavan, Dr.Rajendraprasad Road,
New Delhi-110 001.
- 3.The Secretary
Ministry of Finance, Government of India, North Block,
New Delhi-110 001.
- 4.The Secretary
Ministry of Human Resource Development
Department of Higher Education,
Government of India,
West Block-I, Wing-6, 2nd Floor,
R.K.Puram, New Delhi-110 066.
- 5.The Director,
Social Justice and Empowerment
Shastri Bhavan, Dr.Rajendraprasad Road,
New Delhi 110 001.

6.The Member Secretary,
All India Council for Technical Education,
Nelson Mandela Marg,
Vasant Kunj, New Delhi-110 070.

7.The Secretary,
The Government of Tamil nadu,
Adi-Dravidar and Tribal Welfare Department
Chennai-600 009.

8.The Secretary,
Higher Education Department,
Government of Tamil nadu,
Fort St.George, Secretariat,
Chennai-600 009.

9.The Director,
Adi-Dravidar and Tribal Welfare Department,
Ezhilagam, Chennai-600 009.

10.The Commissioner of Technical Education,
Guindy, Chennai-600 025.

11.The Secretary,
Tamil Nadu Engineering Admissions, 2019,
Guindy, Chennai-600 025.

12.The Principal
Muthayammal College of Engineering,
Kakavery, Rasipuram
Namakkal District-637 408.

+1cc to Mr.S.Sivapandi, Advocate SR.No.85909

+3cc to Mr.Muthumani Doraisami, Advocate SR.No.85909 & 85911,
85908

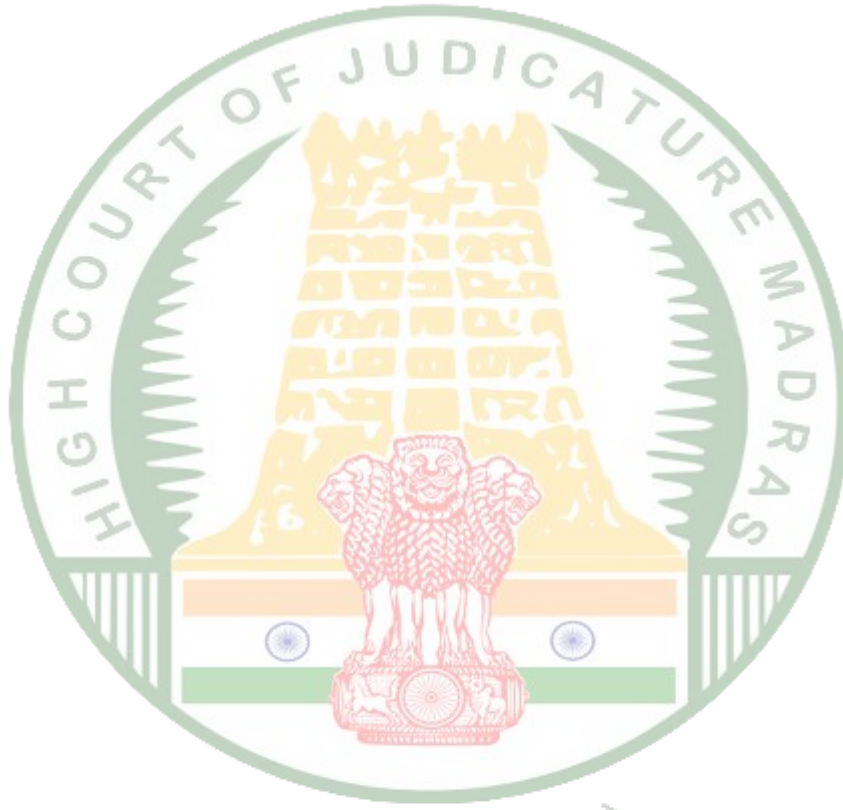
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+1cc to Mr.N.Ramesh, Advocate SR.No.86215

+1cc to Government Pleader SR.No.86498

W.P.Nos.19141, 20814, 20837 of 2019

SSD(CO)
GMY(18/11/2019)



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