

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION NO. 86 OF 2021
IN
WRIT PETITION NO. 5846 OF 2020
WITH
WRIT PETITION NO. 3685 OF 2020

State of Maharashtra and Ors.

...Applicants

Versus

Miss Khan Sana Tahedis D/o Ajaz Ahmed Khan
and Anr.

...Respondents

Mr S.P. Tiwari, AGP Applicants
Mr A.S. Deshpande, Advocate for original Petitioner in Writ petition.

**CORAM : S.V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, J.J.**

ATE : 10th DECEMBER, 2021

PER COURT :

1. The review applicant seeks review of the Judgment and order of this Court dated 19.10.2020. Under the said Judgment, this Court directed the present review applicant to extend the benefit of the Government Resolution dated 19th August, 1995 and reimburse the entire tuition fees paid by the petitioner for the Bachelor in Physiotherapy course undergone by the petitioner on the free seat.

2. Mr Tiwari, the learned Asstt. Government Pleader submits that while passing the Judgment under review, this Court did not consider the fact that the father of the petitioner was not in service under the School Education and Sports Department. He was working under the Director of Technical and Higher Education. The father of the petitioner is a teacher for the vocational courses. The same would not be covered under the Government Resolution dated 19th August, 1995. The learned Asstt. Government Pleader further submits that the

appointment of the father of the petitioner is not approved by the Education Department. The learned Asstt. Government Pleader further submits that the entire tuition fees as claimed by the original writ petitioner cannot be reimbursed. In the year 2003, the circular was issued by the Director of Education (Secondary and Higher Secondary) prescribing the quantum of fees to be reimbursed. The petitioner was reimbursed Rs. 6,000/-. The same reimbursement was also erroneous as the petitioner was not entitled for it. The disciplinary action has been taken against the person, who has disbursed the amount to the petitioner.

3. We have heard Mr A.S. Deshpande, the learned counsel for the original petitioner. According to him, the petitioner is appointed in Maulana Azad High School. The provisions of the Maharashtra Employees of Private Schools (Conditions of Services Regulation) Act, 1977 as applicable to the Secondary and Higher Secondary Education applies.

4. The documents are placed on record. The father of the present non-applicant No. 1/Original Writ Petitioner is appointed as the teacher in Maulana Azad High School. In the said High School, the vocational course is also conducted.

5. It would appear that the Government Resolution dated 19th August, 1995 would apply to the petitioner as her father is officiating his duties in the High School which would be higher secondary school.

6. As far as the quantum of fees is concerned, while delivering the Judgment dated 11.04.2018 in Writ Petition No. 969/2017, we had observed that once the Government has taken a policy decision to provide free education to the wards of the full time teachers teaching in private aided, primary, secondary or higher secondary school, then the authorities implementing the policy, cannot turn

around and say that the reimbursement of the tuition fees would be restricted to Rs. 6,000/- only because in the year when the policy was introduced, the tuition fees was Rs. 6,000/- per annum for the Bachelor in Physiotherapy course. Such attitude would render the welfare policy of the Government of giving free education to the wards of full time employees of the aided primary, secondary or higher secondary school superfluous and nugatory.

7. In light of the above, no case for review is made out.

8. The review application accordingly stands disposed of. No costs.

9. Writ Petition No. 3685 of 2020 be de-tagged from Writ Petition No. 5846 of 2020 and place it before the appropriate Court.

[SHRIKANT D. KULKARNI, J.]

[S.V. GANGAPURWALA, J.]

mta