

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

WRIT PETITION NO. 14113 OF 2021

Shrihari Vasantrya Gaikwad,
Age: 16 years, Occ. Education,
Through is guardian Mother,
Smt. Pratibha Vasantrya Gaikwad,
Age: 40 years, Occ. Housewife,
R/o. At Post. Ukhali, Tq. Aundha Nagnath,
District Hingoli (Maharashtra)

Versus

.. **Petitioner**

1. The State of Maharashtra,
 Through the Secretary,
 Education Department,
 Mantralaya, Mumbai.
2. The Director of Education,
 Secondary and Higher Secondary,
 Main Building, Pune,
 Tq. & Dist. Pune.
3. The Education Officer (Secondary),
 Zilla Parishad, Parbhani.
4. The Headmaster,
 Gandhi Vidyalay (Secondary),
 Parbhani, Tq. & Dist. Parbhani,
 Office Address: New Mondha,
 Parbhani, Tq. & Dist. Parbhani.
5. Honourable Deputy Secretary,
 Government of India,
 Ministry of Human Resource Development,
 Department of School Education &
 Literacy Secondary, Scholarship
 Division Shastri Bhawan,
 New Delhi – 110 001.

.. **Respondents**

...
Mr. Amol Sawant h/f. Anup D. Mane, Advocate for the Petitioner.
Mrs. M.A. Deshpande, AGP for Respondent nos.1 to 3.
Mr. Brahmanand M. Dhanure, Advocate for Respondent no.5.
...

**CORAM : SMT. VIBHA KANKANWADI &
Y.G. KHOBRADE, JJ.**
DATE : 18th October, 2022

JUDGMENT:- (Per: Y.G. Khobragade, J.)

1. Rule. Rule made returnable forthwith. With the consent of the parties taken up for final disposal at admission stage.
2. Heard Mr. Amol Sawant h/f. Mr. Anup Mane learned counsel for the petitioner, Mrs. M.A. Deshpande learned AGP for the respondent nos.1 to 3 and Mr. Brahmanand M. Dhanure learned counsel appearing for the respondent no.5. Though, the respondent no.4 is served but did not appear.
3. By this petition under Article 226 of the Constitution of India the petitioner seeks issuance of direction against respondent no.5 to accept the offline proposal for consideration of communication dated 12.07.2022 forwarded by the respondent no.2 for disbursement of scholarship under the scheme of National Means cum Merit Scholarship Scheme (for short 'NMMSS').

3. On face of record, it apparently appears that the petitioner was studying in 8th std. with the respondent no.4-school in academic year 2018-2019 and was selected in merit list of NMMSS scholarship conducted in the year 2018-2019 but he has been denied said scholarship on the ground that his residential address is shown of Hingoli district though the petitioner was studying in Gandhi Vidyalay, Parbhani. Hence his online application for scholarship is not being accepted.

4. It is a matter of record that, the Central Government launched a scheme vice NMMSS under which the students belonging to economically weaker sections are held eligible to appear for such exam and the students succeeding in the said exam on meritorious basis are held entitled for scholarship of Rs.12,000/- per annum. The said scheme continued beyond XIIth std., for three years from 2017-2018 to 2019-2020. On 20.08.2018, the respondent no.1 issued a circular and provided that if the student from weaker section succeeds in scholarship examination with at least 40% he would be held entitled for scholarship of Rs.12,000/- per annum. It is not in dispute that the present petitioner submitted his candidature online for appearing in NMMSS (2018-2019) and while submitting his application his address was mentioned as at post Ukhali, Tq. Aundha Nagnath, District

Hingoli, whereas the petitioner was studying in 8th std. in Gandhi Vidyalay, Parbhani-respondent no.4. The petitioner produced mark sheet and scholarship result in which the petitioner cleared scholarship examination and he was found eligible for the scholarship under the said scheme as his name was listed at serial no.54. Therefore, the learned counsel appearing for the petitioner submitted that merely the address of petitioner was mentioned as at post Ukhali, Tq. Aundha Nagnath, District Hingoli while submitting his online form for said scholarship examination and it cannot be a substantial ground to deny scholarship to him.

5. Per contra the learned AGP submitted that, in the year 2018-2019, though the petitioner was found to be eligible for scholarship under the scheme of NMMSS, however, while uploading documents i.e. income certificate, *bona fide* certificate, mark sheet etc., it was found that, the petitioner was not a student of school situated in Hingoli district. Therefore, application of the petitioner returned to the log-in of the petitioner, so also, Aadhar card of the petitioner which depicted address of Hingoli District and not of Parbhani District. Therefore, in absence of updation in address, it is not possible for the authority to proceed with the application of the petitioner.

6. It is worthless to mention here that, the petitioner is a permanent resident of village Ukhali, Tq. Aundha Nagnath, District Hingoli and he was admitted in 8th std. with the respondent no.4-school and submitted his candidature for NMMSS conducted in the year 2018-2019 and had successfully passed said scholarship examination in merit. The NMMSS does not provide that, if the student who is permanent resident of one particular district and studying in a school situated in another district is debarred from receiving scholarship. Therefore, merely the address of present petitioner while submitting online form was mentioned as village Ukhali, Tq. Aundha Nagnath, District Hingoli instead of Parbhani District cannot be a substantial ground to deny scholarship benefit. The petitioner produced correspondence on record which shows that, the respondent no.4-Headmaster of Gandhi Vidyalay, Parbhani requested the respondent no.2 for releasing the scholarship in favour of the petitioner as he is the student of Gandhi Vidyalay, Parbhani from 1st to 10th std. Therefore, the respondent no.2 should have forwarded the proposal in respect of the present petitioner for payment of scholarship to the Central Government, however, the respondent no.2 has wrongly shown defective application of the present petitioner. Therefore said action on the part of the respondent no.2 is liable to be quashed and set aside. Since the Central Government announced scholarship scheme for the benefit of

economically weaker sections and the petitioner who comes from the economically weaker section and succeeded in scholarship examination with merit. Therefore, the petitioner is certainly entitled for the scholarship under the said scheme launched by the Central Government on 20.04.2018 and merely the petitioner being permanent residence of District Hingoli and taking education in Gandhi Vidyalay, Parbhani, Dist. Parbhani cannot be substantial ground to list his request application in-defective category without any specific provisions under the NMMSS. Therefore, action on part of the respondent no.5 is illegal, bad in law and liable to be quashed and set aside. In view of above discussion, we are inclined to grant present petition and proceed to pass the following order:

ORDER:

- I) Writ Petition is hereby allowed in terms of prayer clause-A, B & B-1.
- II) The respondent no.5 is hereby directed to accept offline proposal of the petitioner for receiving the scholarship under the NMMSS and also to consider the communication dated 12.07.2022 forwarded by respondent no.2.
- III) Rule is made absolute in above terms.
- IV) It is made very clear that the present order shall not be used as precedent.

[Y.G. KHOBRAGADE, J.]

[SMT. VIBHA KANKANWADI, J.]