



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment reserved on: 26 August 2022

Judgment pronounced on: 31 August 2022

+ **W.P.(C) 6839/2022 & CM APPL. 23747/2022**

ARUNA MAHANANDA

..... Petitioner

Through: Mr.Abhik Chimni, Mr.Animes
Prusty and Ms.Shardha Sondhi,
Advs.

versus

MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT

..... Respondent

Through: Ms.Monika Arora, SC for R-1.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

J U D G M E N T

1. The petitioner has sought issuance of appropriate directions commanding the respondent Ministry of Social Justice and Empowerment to issue the final letter of award and disburse appropriate funds under the **National Overseas Scholarship¹** scheme to the petitioner. By a subsequent amendment application which was moved, the petitioner has also assailed the validity of a communication dated 01 May 2022 in terms of which the prayer of the petitioner for being accorded benefits under the NOS has come to be refused. In the impugned communication of 01 May

¹ NOS



2022, the respondent has taken a stand that the petitioner would be ineligible to be accorded benefits under the NOS since he would be visiting India for research purposes and that the topic of the academic program which was sought to be pursued is totally based on field work in India. The respondent has further held against the petitioner on the ground that the Guidelines framed, and which were valid for the Session 2021-22, envisaged travel to India only in case of “exigencies”.

2. For the purposes of disposal of the instant writ petition, the following essential facts may be noted. The petitioner applied to the **University of Essex**² for pursuing a Ph.D. course in Criminology. Upon consideration of the proposed topic of research, the University forwarded an unconditional offer to the petitioner and accepted his application for post graduate study vide its communication of 28 October 2020. The petitioner, however, did not come to be included in the list of selected candidates under the NOS which was published by the respondent. This constrained him to prefer W.P.(C) 10659/2021. On 21 September 2021, Court passed the following order: -

“4. The petitioner’s application has been rejected on 06.07.2021, with the noting “Marks is less than 60 %”. However, the petitioner has placed on record the official transcript of his Master of Arts in Social Work [Criminology and Justice] degree from the Tata Institute of Social Sciences, Mumbai, which shows that he achieved a Cumulative Grade Point Average [CGPA] of 6.8 and a letter grade of B+. The documents annexed to the writ petition indicate that this is equivalent to 68%.

5. Ms. Arora seeks time to take instructions.

² University



6. In view of the submission of Mr. Abhik Chimni, learned counsel for the petitioner, that the petitioner is required to report to the University on 07.10.2021, list on 29.09.2021. Ms. Arora is requested to take instructions in the meantime.”

3. The writ petition ultimately came to be disposed on 29 September 2021 in the following terms:-

“1. Pursuant to the order dated 21.09.2021, Ms. Monika Arora, learned Central Government Standing Counsel for the respondent- Ministry of Social Justice and Empowerment, submits upon instructions that the respondent will issue a provisional award letter in favour of the petitioner for grant of the National Overseas Scholarship [“NOS”]. The provisional award letter will be issued by 01.10.2021, and will be subject to fulfilment of the scheme conditions and guidelines.

2. In view of Ms. Arora’s statement as above, Mr. Abhik Chimni, learned counsel for the petitioner, states that no further relief is required in this writ petition.

3. The writ petition is accordingly disposed of.”

4. As would be evident from a reading of the aforesaid order, the respondent had agreed to grant a provisional award letter in favour of the petitioner by 01 October 2021 subject to fulfillment of the scheme conditions and guidelines. Thereafter e mails and correspondence came to be exchanged between the parties with the petitioner providing further information as desired by the respondents. Awaiting the issuance of the final award letter, the petitioner was permitted by the University to undertake remote study till 30 April 2022. In the meanwhile, the petitioner appears to have continued to pursue the issue of grant of the final award letter by the respondents. The University finally by its letter of 25 April 2022 called upon the petitioner to clear his outstanding tuition fee at the earliest. It is at that stage that the present writ petition came to be filed. It



was on 02 May 2022 when the writ petition came before the Court that the impugned communication of 01 May 2022 was produced on behalf of the respondent. The said order was thereafter assailed by the petitioner by filing an amendment application.

5. During the pendency of the present writ petition, the petitioner has also filed additional affidavits placing on record the proposal for conduct of research and the award of Ph.D. degree by the University as well as details of certain students who were extended benefits under the NOS, notwithstanding the fact that the proposed areas of research related to Indian topics. The list of those students which has been placed as Annexure-A to the additional affidavit is set out hereinbelow: -

“List of Students awarded a scholarship under NOS and allowed to conduct research in India.

1. Name: Saraswati Suna

University: University of Sydney, Australia, PhD.

NOS Scholarship Year: 2018-19

Research Topic: Experiences, Challenges and Resistance: A study of Dalit

2. Name: Nishikant Kumar

University: The University of New Castle, Australia, PhD.

NOS Scholarship Year: 2019-2020

Research Topic: The Usage of insecticides in agriculture in Odisha, India: An assessment of exposure, health outcomes, and the use and effectiveness of practices and equipment to mitigate exposure.

3. Name: Arati Subash Kade

University: University of Amsterdam, PhD



NOS Scholarship Year: 2019-2020

Research Topic: Politics of recognition and redistribution of nomadic communities in India.”

6. The counter affidavit which has been filed by the respondent here proceeds on the basis that the research which the petitioner seeks to pursue, entails research in India only and therefore the petitioner is ineligible for scholarship benefits. The respondent has reiterated the reasons recorded in the impugned order by referring to the Guidelines for the NOS and contend that a meaningful reading of the same would clearly indicate that it excludes topics of study in foreign universities and educational institutions which may be “*India centric*”.

7. Ms. Arora, learned Standing Counsel representing the Union respondent, has in the course of her oral submissions, reiterated the above and has highlighted the fact that Clause X(xvi) of the **Guidelines under Central Sector Scheme of National Overseas Scholarship for SC Etc. Candidates for Selection Year 2020-21**³ clearly establishes that travel back to the country is permitted only in case of family exigencies and thus clearly indicative of the fact that any course which a candidate may seek to pursue in a foreign educational institution and which requires the presence of the student in India is excluded. Clause X (xvi) of the Guidelines 2020-21 is reproduced hereinbelow:-

“X. Mandatory Conditions

xvi. In case of exigency at home where the awardee is required to return to India for some time to attend to it, the awardee is permitted to return to

³ Guidelines 2020-21



India for the specific purpose, after having informed the Indian Mission and the educational institution where one is pursuing studies about it. The awardee will, however, be required to bear to and fro journey expenses for the visit and shall also not be entitled to receive maintenance allowance under the scheme from the Indian Mission, for the period of being away from the place of his/her educational institution abroad and the maintenance allowance shall be resumed by the Indian Mission only from the date of his/her resuming the same course at the same institution. The awardee after having dealt with the situation at home, is required to return to the place of his/her educational institution, as early as possible; failing which, he/she shall be liable to be declared a defaulter and the recovery proceeding will be initiated against him.”

8. The Court further notes that the revised Guidelines which have since come to be published by the respondent and which is applicable for the year 2022-23, specifically excludes topics / courses concerning Indian culture, heritage, history and social studies. The relevant clause of the amended Guidelines 2022-23 is reproduced hereinbelow: -

“10. Mandatory Conditions

ii. Topics/courses concerning Indian Culture/heritage/History/Social studies on India based research topic shall not be covered under NOS. The final decision as to which Topic can be covered under such category will rest with Selection-cum-Screening Committee of NOS.”

9. Mr. Chimni, learned counsel appearing for the petitioner, assailing the stand taken by the respondent would submit that the NOS which was applicable nowhere envisaged denial of scholarship merely on account of the fact that the research sought to be pursued related to a subject pertaining to social conditions or the efficacy of the criminal justice system in India. Mr. Chimni would contend that Clause X (xvi) cannot possibly be viewed as rendering the petitioner ineligible for benefits under the NOS. Drawing the attention of the Court to the proposal which came to be accepted by the



University and more particularly to the “Timeline” mentioned therein, Mr. Chimni submits that the respondent clearly erred in assuming that the entire period of research and study would be spent in India. The Timeline which stands mentioned and set out in the proposal submitted by the petitioner is extracted hereinbelow: -

“Timeline

The proposed timetable for my research is as follows: the first year will comprise further research training and a literature survey to deepen my theoretical understanding of the research area and work out the practicalities of the fieldwork. Year two will be primarily concerned with the data collection including archival research and carrying out interviews of released lower castes prisoners and coding the themes and subthemes. This will also involve an ongoing analysis of the material being collected. During the third and fourth years, I will review recent literature, complete my analysis of the data, and write up my final thesis.”

10. Mr. Chimni has also drawn the attention of the Court to the certificate as drawn by the Supervisor of the proposed doctoral research and which lends light on the course content, the subject of study and the nature of time that the petitioner would have to spend while pursuing the Ph.D. course. Since the contents thereof would have some bearing on the questions raised, the said certificate dated 11 July 2022 is reproduced hereinbelow:-

“University of Essex

11 July 2022

To whom it may concern

I am writing on behalf of Aruna Mahananda. I am a Senior Lecturer in Sociology at the University of Essex and Mr. Mahananda has applied, and been accepted to, the doctoral programme in Sociology under my supervision, with co-supervision from Professor Pete Fussey. We accepted

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Mr. Mahananda on the basis of his proposal, which seeks to explore the experiences of individuals in the criminal justice system in the Western Odisha. In order to complete this Ph.D., we expect Mr. Mahananda to complete a period of field research in India, where he will collect qualitative data about the experiences of individuals who have been in the Indian justice system. For Mr. Mahananda to meet the expected Ph.D. milestones, it is vital that he conduct this fieldwork in person in India. It will take a minimum of two months for Mr. Mahananda to conduct this fieldwork; the academic standard in the UK is that data collection will take one academic year.

Mr. Mahananda's field research proposes to make a strong contribution to knowledge. While there is a great deal of Western research on the experiences of imprisonment, there is less from the Indian and broader Southeast Asian context. In particular, Mr. Mahananda's focus on the experience of Dalit people in the justice system has not been conducted, and thus he is proposing an innovative and new area of inquiry. This cannot be done in a desk-based manner; the data should be collected through interviews. We accepted Mr. Mahananda on the assumption that he would be conducting this important research in order to make a contribution to knowledge.

If you have any further questions, please do not hesitate to contact me at Alexandra.cox@essex.ac.uk.”

11. Having noticed the rival contentions, the Court at the outset notes that the offer letter of the University clearly indicates that the petitioner has been accorded admission to a full-time course in that educational institution. The course is to run over a period of four years. While the petitioner would necessarily have to visit the country in order to collect data relating to his doctoral research, the course essentially would require his presence on the campus of the University except for the period that may be spent in collation of data and interview of subjects. The study, research and writing of the thesis connected with the Ph.D. program would necessarily have to be on campus and reviewed by the Supervisor on a periodical basis. The respondent, thus, appears to have incorrectly proceeded on the



assumption that a major part of the course would require the presence of the petitioner in the country itself and off campus. This assumption stands belied when one reads the proposal submitted by the petitioner as well as the certificate issued by his Supervisor.

12. That then takes the Court to consider the true intent of Clause X (xvi) which has been heavily relied upon by the respondents while coming to conclude that the petitioner is not entitled to scholarship under the NOS. Upon a careful consideration of that clause, the Court finds itself unable to sustain the view as expressed by the respondent for the following reasons. It must at the outset be noted that Clause (xvi) principally deals with the issue pertaining to expenses likely to be incurred by a scholarship recipient if he were constrained to travel to India while studying abroad due to exigencies. It prescribes that expenses to be incurred in connection with such a trip would have to be borne by the student. That clause which deals with such exigencies cannot be construed as excluding topics of study or research relating to India from the NOS. The NOS essentially seeks to grant an impetus to SC/ST students to pursue a course of higher study in prestigious institutions of learning abroad. Neither the scheme nor the Guidelines can possibly be read or interpreted to envisage exclusion of study or research on topics which may be “*India centric*” or pertaining to social conditions and issues relating to the country. That specific exclusion came to be introduced only vide the Guidelines pertaining to the academic session 2022-23. This additionally lends credence to the submission of Mr. Chimni that the Guidelines which prevailed at the relevant time did not envisage exclusion



of a candidate merely because the proposed course of study related to a topic which may draw from Indian experiences or which may entail a period of stay in the country for the purposes of collection of data and material relating to the research topic.

13. The Court also bears in mind the specific instances which have been cited by the petitioner where students had been extended benefits under the NOS even though the field of doctoral research or study was on a topic relating or pertaining to India. Those instances have not been disputed by the respondents. While Ms. Arora did contend that those instances related to the grant of scholarship in 2019-20 and that the respondents have not accepted such proposals under the NOS thereafter, no particulars in support of the said submission was laid before this Court. In any case, this Court is of the considered opinion that the Guidelines which prevailed at the relevant time cannot be interpreted or understood as excluding such proposals from consideration.

14. The Court further notes that the respondents appear to have taken a positive stand to exclude topics pertaining to social conditions in the country from the NOS only in 2022-23. The amended Guidelines, however, cannot detract from the right of the petitioner to seek benefits under the policy that existed at the relevant time. This more so when one bears in mind that the NOS principally seeks to provide avenues of higher learning to students belonging to the marginalized sections of society or those who on account of social or financial constraints would otherwise never be able to pursue courses of study in reputed institutions of learning abroad.



15. The Court also bears in mind that the proposed topic of doctoral research of the petitioner is in the field of “Criminology” and how the social status of a person may lead to inequitable or unjust treatment in the criminal justice system. The proposed area of research has been described by the Research Supervisor to be a “*new area of enquiry*” in the Southeast Asian context and one which would contribute to knowledge. The proposal of the petitioner was duly accepted by the University upon due consideration. It would be wholly arbitrary to deny the petitioner the benefits of the NOS merely because the research would also include a period during which the petitioner would have to spend time in the country for the collection of data and facts, interviewing people and assimilating material connected with that research.

16. Accordingly, and for all the aforesaid reasons the writ petition is allowed. The impugned communication of 01 May 2022 is hereby quashed and set aside. Consequent to the Court having found the petitioner entitled to the benefits of the NOS, the respondents shall take further steps to ensure that a final letter of award is issued and disbursements envisaged thereunder released with due expedition and dispatch.

YASHWANT VARMA, J.

AUGUST 31, 2022

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