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

985 WRIT PETITION NO.6347 of 2017

**KHANDESH BAHUUDESHIYA VIDYA PRASARAK MANDAL
JALGAON, THROUGH ITS SECRETARY
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

**AND
WRIT PETITION NO.6845 OF 2017**

**KHANDESH BAHUUDESHIYA VIDYA PRASARAK MANDAL
JALGAON, THROUGH ITS SECRETARY
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

**AND
WRIT PETITION NO.6843 of 2017**

**KHANDESH BAHUUDESHIYA VIDYA PRASARAK MANDAL
JALGAON, THROUGH ITS SECRETARY
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

**AND
WRIT PETITION NO.6852 of 2017**

**DNYANSHREE MAHILA BAHUUDESHIYA SEVABHAVI
SANSTHA, DHULE, THROUGH ITS SECRETARY
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Mr D. S. Bagul, Advocate for petitioners;
Mr S. G. Sangle, A.G.P. for respondent Nos.1 to 6/State in all
petitions
Mrs Ratna R. Mane, Advocate for respondent No.7 in all petitions

**CORAM : RAVINDRA V. GHUGE
AND
SANJAY A. DESHMUKH, JJ.**

DATE : 2nd February, 2023

PER COURT:

1. The learned A.G.P. submits on behalf of the State Government that these matters may be adjourned. By the order of the Hon'ble Supreme Court, dated 07/10/2021, these petitions have been restored to the file of this Court, for being heard afresh. These petitions have been adjourned on requests of either of the parties from 06/05/2022 on-wards, and considering the last order dated 09/01/2023, by which, these matters were listed today at 2.30 pm., by the consent of the parties for a final hearing, in the backdrop of the pleadings being completed, that we have rejected the request for adjournment.

2. These matters were earlier heard by this Court at length and by the judgment dated 03/08/2018, they were dismissed purely on account of :

- (a) the contention of the State that the '2-D Animation' course, conducted by the petitioners/Institutions, which was a One Year course, was not eligible for scholarship meant for the students from the reserved category; and
- (b) The University informed the High Court that the petitioners/Institutions have indulged in fraudulent acts and, therefore,

the First Information Report has been lodged against all the petitioners in the police station and a detailed inquiry has been conducted against them.

For clarity, we are reproducing paragraph Nos.22, 23, 24 and 25 of the said judgment, as under :-

“22. Considering all above undisputed facts and for the reasons discussed above, it is clear that the above scheme of Central Government is implemented through the State of Maharashtra and the State Government has not included 2-D Animation course specifically in 16 courses mentioned in letter dated 11.11.2014 of the Commissioner, Social Welfare, Maharashtra State, Pune addressed to the Assistant Commissioners and Deputy Commissioners of Social Welfare and the said courses are of two years to which scheme of post-matric scholarship is applicable and the 2-D Animation course is of one year. Moreover, when by letter dated 30.08.2014 the State Government has specifically declared that in 2013-2014 the scholarship will be sanctioned to the courses of more than two years and above of full time courses and respondent No.7 University was specifically informed that scheme of scholarship would not be applicable to less than one year period and when in Central Government letter dated 31.12.2010 regarding revision in the Centrally Sponsored Scheme 2-D Animation course is not included it cannot be said that Centrally Sponsored Scheme of Post-Matric Scholarship is applicable to the students admitted in the petitioners' institutions in 2-D Animation Course in 2013-2014.

23. In the above circumstances, merely because the students admitted in 2-D Animation Course in the petitioners' institutions were given user ID and Password

for getting scholarship and 25 students in 2-D Animation Course in petitioner institutions in Writ Petition No.6843/2017 i.e. Khandesh Bahuudeshiya Vidya Prasarak Mandal, Jalgaon, Sanchlit, Red Pixel Animation Academy Jalgaon Taluka and District Jalgaon were sanctioned scholarship for the year 2013-2014 as per information Exh.R (Page No.80) it cannot be said that the students in the said petitioner or other petitioners admitted in the year 2013-2014 in 2-D Animation Course were entitled to scholarship as argued by the learned counsel appearing for the petitioners.

24. Another aspect to be noted is that it is see from the enquiry report of the Enquiry Committee that there was enquiry in the matter of illegalities committed by the petitioners' institutions in writ petition No.6347/2017 in extracting the amount of scholarship in doubtful manner and the FIR was filed against the said petitioners' institutions. Enquiry Committee found that said Khandesh Bahuudeshiya Vidya Prasarak Mandal, Jalgaon, Sanchlit, Red Pixel Animation Academy Jalgaon Taluka and District Jalgaon committed several illegalities in extracting the amount from the Government as detailed in the said enquiry report and that the concerned institutions have committed serious offence of obtaining Rs.5 crore to Rs.5.5 crore from the Government and on considering report the compliant is lodged in the police station as per R-2 against the petitioner institution i.e. Khandesh Bahuudeshiya Vidya Prasarak Mandal, Jalgaon, Sanchlit, Red Pixel Animation Academy Jalgaon Taluka and District Jalgaon. Therefore, also, we find that the petitioners' institutions are not entitled to scholarship as per the State Government Resolution dated 02.08.2011 and Central Government letter dated 31.12.2010 since the 2-D Animation course is not included in the said State Government Resolution and Central Government letter.

25. *For the forgoing reasons, we find no fault in the impugned order of respondent No.2 rejecting the claim of scholarship to the students admitted in the petitioners' institutions in 2-D Animation Course as said course is not included in the course mentioned in the Government Resolution dated 02.08.2011 of the Maharashtra State and Central Government letter dated 31.12.2010. Therefore, there is no reason to set aside the impugned order. Consequently, there is no merit in the writ petitions. Accordingly, we dismiss all these petitions. No costs."*

3. These matters were taken by the Management to the Hon'ble Supreme Court in Petitions for Special Leave to Appeal (C) Nos.15760-15767 of 2019. On 07/10/2021, the appeal was heard and the Hon'ble Supreme Court, while setting aside the judgment of this Court, concluded as under :-

"Leave granted.

These appeals take exception to the judgment and orders dated 03.08.2018 and 11.01.2019 passed by the High Court of Judicature at Bombay at Aurangabad in WP Nos. 6347, 6843 and 6852 of 2017 and RA Nos. 32186, 32182, 32188 and 32184 of 2018 respectively.

When these matters came up for admission on 04.07.2019, noting the core grievance of the appellants, the Court observed thus:

"The principal grievance made by the petitioners is that the matter in issue is governed by the subsequent circular issued by the State Government dated 17.09.2014 and which fact was brought to the notice of the High Court by way of a Review Petition, but

that contention has not been answered by the High Court at all.

Issue notice on the application for condonation of delay as well as on the Special Leave Petition, returnable within three weeks.

Dasti, in addition, is permitted."

After hearing learned counsel for the parties, it is noticed that there is substance in the grievance made the appellants that specific plea was taken by the appellants, inter alia, in the following words in the review petition filed before the High Court:

"...III) That, it should be held and seen that, the present respondent No.5 has deliberately filed false affidavit and further suppressed the corrigendum issued by the State Government on 17.09.2014, which provides correction of duration of course "One Year" instead of "Two Year". The respondents have deliberately suppressed the said corrigendum so as to see that, the petitioner should be deprived of scholarship. Hereto annexed and marked EXHIBIT "C" is the copy of corrigendum issued 17/09/2014...."

The Review Petition was dismissed on 11.01.2019 without advertng to the said circular or analysing the efficacy of the same. In the judgment deciding the Writ Petition, the said circular had not been adverted to at all.

In the circumstances, we deem it appropriate to set aside the impugned judgment and orders and relegate the parties before the High Court by restoring the Writ Petition to the file of the High Court to its original number for being considered afresh on its own merits and in accordance with law. Ordered accordingly.

All contentions available to the parties are left open.

As emphatically requested by Mr Vivek C. Solshe, learned counsel appearing for respondent No. 7, we place on record that while considering all contentions, the High Court may also advert to the opinion recorded in the impugned judgment in paragraph 24, if relevant to decide the matters in issue.

As aforesaid, all contentions must be decided by High Court afresh without being influenced by the impugned judgment and orders as well as the remand order.

The appeals are disposed of in the above terms.

Pending application (a), if any, stand disposed of.”

4. The respondent / Yashwantrao Chavan Maharashtra Open University has filed an additional affidavit dated 31/01/2023 through Dr. Ramesh Bhivsen Shekokar.

5. Having considered the extensive submissions of the learned Advocates for the respective sides, and by their consent, we are reproducing the narration of their pleadings and their contentions, which were set out earlier, from paragraph Nos.2 to 16, as under:-

“2. Since the challenge in all these petitions is to the Government order dated 30.06.2015 passed by respondent No.2 the Commissioner, Social Welfare Department, Pune whereby it was held that as 2-D Animation Course which is being conducted in the petitioners' institutions is not mentioned in the group of courses mentioned in the Central Government Resolution dated 31.12.2010 and Maharashtra Government Resolution dated 02.08.2011, the scholarship is not payable to the 2-D Animation course conducted in the

petitioners' institutions, all these petitions are being disposed of by this common judgment.

3. There is no dispute that the petitioners in all these petitions are educational institutions situated in different districts mentioned in the clause title in the respective petitions. Alongwith other Courses, the petitioners are conducting 2-D Animation Course duration of which is of one year and medium of said course is an English. Respondent No.7- Yashwantrao Chavan Maharashtra Open University (hereinafter referred to as the University) has introduced said diploma in 2-D Animation. The petitioners had submitted necessary proposal to the office of the University seeking necessary recognition of the Study Centre for conducting the said course. After conducting inspection and considering the infrastructural facilities available with the petitioners, the University had granted permission vide recognition letter dated 29.08.2013 to the petitioners. The common contentions are raised in all these petitions. Respondent Nos.5 and 7 have filed common reply in writ petition No.6347/2017 which is a lead petition. The arguments are also advanced referring the documents in the said petition. Therefore, to know the case of the petitioners we refer the pleadings of the parties and the documents produced in writ petition No.6347/2017.

4. Case of the petitioners is that in the Academic year 2013-2014 the petitioners had admitted students for the course of diploma in 2-D Animation after respondent University had published prospectus for the said course, after paying requisite fees as mentioned in the admission brochure. As per the record of the institutions the programme fee is inclusive of tuition fee and examination fee. The said fee was paid by the petitioners institutions. After accepting the fees and enrollment applications submitted by the students, the University has further verified the details of the applications. Thereafter, the University has assigned Permanent Registration Number

(PRN) to the students who are registered for the said course. Once the Permanent Registration Number is accorded to the students, the admission to the said Course was confirmed by the University. The Permanent Registration Number is an identity of a particular student. Unless the students get Permanent Registration Number, the students will not be entitled to secure their admission and further continue the course. Once the Permanent Registration Number is issued, the students automatically get registered with the University and is further entitled to study the course and give the examination. The University has accorded Permanent Registration Number to all the students, which are enrolled by the petitioners' institutions.

5. The petitioners contend that time and again, respondent Nos.1 and 2 have issued various Government Resolutions and orders wherein it is made clear that, the students belonging to weaker community as well as reserved category i.e. SC, ST and VJNT are entitled for scholarship. By orders dated 28.01.2004, 05.12.2009 and 12.01.2010 respectively issued by Central Government, Social Welfare Department, Pune and the Assistant Secretary of Adiwasli Department, instructions were issued regarding scholarship to the students taking the distance education belonging to Scheduled Caste and Scheduled Tribe whose income is less than Rs.1,00,000/- and Rs.1,80,000/-.

6. According to the petitioners, on 23.10.2013 the Additional Commissioner, Tribal Welfare Department, Nashik issued a letter to all the Project Officers, integrated Tribal Development Department, Dhule as well as Jalgaon clarifying that in view of the Government Resolution dated 12.01.2009 issued by the Tribal Development Department to respondent University Animation Courses as well as distance education courses are entitled for scholarship. Accordingly, vide its letter dated 30.09.2013 the University directed all the Study Centres to get User ID as well as Password from the Office of the Social Welfare Department

as well as Project Officer, Tribal Development Department and submit all the relevant information for the purpose of getting scholarship online as early as possible so that the concerned institutions will get necessary reimbursement of scholarship in their accounts. In pursuance to the said letter as well as instructions issued by the University, the petitioners' institutions have taken user ID as well as Password from the Social Welfare Department as well as Tribal Development Department and further submitted necessary applications online for getting the scholarship of the enrolled students.

7. Further, it is the case of the petitioners that the University received some unknown complaints and therefore, the University appointed a Committee of the retired Judge for the purpose of making enquiry in the matter. Without giving any notice or without calling the petitioners, the Committee headed by one person inspected the necessary registration applications submitted by the students with the University and prepared its report behind back of the petitioners as well as students. After completion of the said enquiry the said Committee submitted a report to the office of the University. The petitioners got knowledge of the said report from the local news paper that the Committee has given clean cheat to the institutions and further directed to pay necessary scholarship to the Institutions. The examinations of the students were taken by the University in view of the directions given by the Committee.

8. Further it is the case of the petitioners that on various occasions they personally visited the Office of respondent Nos.2 to 6 and requested the concerned Officer to disburse the scholarship. However, said authorities have not taken any pain and nor given any heed to the request made by the petitioners. Therefore, a request was made to respondent Nos.1 and 2 to look into the matter and further to disburse necessary scholarship by letter dated 17.07.2014 by the

petitioner in Writ Petition No.6347/2017. Thereafter, despite of written correspondence between the petitioners and the concerned respondents referred in the respective petitions, the scholarship was not granted to the students of diploma in 2-D Animation for the year 2013-2014 and scholarship was rejected by the impugned order dated 30.06.2015 by respondent No.2. Therefore, these petitions for setting aside the said order.

9. Mr. Bagul, learned counsel appearing for the petitioners in all the petitions referring to Exh.C prospectus of diploma in 2-D Animation for the year 2013-2014 issued by the University submitted that the University has introduced the said course alongwith other courses and duration of said Course is of one year and medium of said course is in English. The learned counsel further submitted that the University vide its letter dated 30.09.2013 directed all the Study Centres to get necessary user ID and Password from the Office of the Social Welfare Department as well as Project Officer, Tribal Development Department and submit all the relevant information for the purpose of getting scholarship online as early as possible so that the concerned institutions will get necessary reimbursement/scholarship in their accounts. In pursuance to the said letter as well as the instructions issued by the University, the petitioners have taken user ID as well as password from the Social Welfare Department as well as Tribal Development Department and further submitted necessary applications online for getting the scholarship of the enrolled students.

10. The learned counsel Mr.Bagul further referring to tabular form at Page No.48 submitted that in the year 2013-2014 after granting recognition to the petitioners' institutions to conduct the 2-D Animation Course the petitioners' admitted Scheduled Caste and Scheduled Tribe students as detailed in the said tabular form. So also, referring the said tabular form the learned counsel

submitted that the students from the Scheduled Tribe of the petitioner institution in writ petition No.6843/2017 have received scholarship of Rs.12,07,625/- and petitioner in writ petition No.6845/2017 has received scholarship of Rs.56,51,685/- for the students from Scheduled Caste and Rs.22,70,335/- for the students from Scheduled Tribe as mentioned in the tabular form at Sr. Nos. 1 and 3 and so also the petitioner institution in writ petition No.6852/2017 which is at Sr. No.4 in the said form has also received scholarship of Rs.48,78,805/- for the students from the Scheduled Tribe. Learned counsel appearing for the petitioners also invited our attention to Exh.R which is tabular form showing details of Government of India Post S.S.C. Scholarships for the year 2013-2014 to substantiate his arguments that scholarship was paid for 2-D Animation course to the Scheduled Caste and Scheduled Tribe students from the petitioner institution in writ petition No.6843/2017. The substance of the argument of the learned counsel appearing for the petitioners was that as the students in petitioners institutions as discussed above have received scholarship for 2-D Animation Course for the year 2013-2014 all the students who were admitted in 2-D Animation Course in all petitioners for the year 2013-2014 are entitled to get scholarship as per the Central Government letter dated 31.12.2010 and the Maharashtra Government Resolution dated 02.08.2011.

11. Mr. Bagul, Learned counsel further inviting our attention to Exh.F letter dated 23.10.2013 of the Additional Commissioner, Tribal Development, Nashik to the Project Officer, Tribal Development Project, Dhule submitted that by the said letter the Additional Commissioner has directed the Project Officer to take action as per rules about giving scholarship to the 2-D Animation course under respondent No.7-University and to submit the report. So also, by referring letter dated 15.09.2014 of the Principal of the petitioners' institutions in writ petition No.4367/2017 to the Deputy Commissioner, Social Welfare Office, Jalgaon

learned counsel submitted that the University has accorded sanction to the 2-D Animation course but the students have not received the scholarship and therefore, request was made to pay the scholarship to the students till 20.09.2014 by taking decision immediately.

12. Learned counsel appearing for the petitioners further invited our attention to Exh.S the State Government circular dated 21.03.2012 of the Commissioner, Social Welfare, Maharashtra, Pune addressed to the Regional Deputy Commissioners and Assistant Commissioners of the Social Welfare regarding implementation of the scheme of Central Government of India Post S.S.C. Scholarship, education fees and examination fees as well as the Government Resolution Exh.T dated 04.03.2014 regarding extending benefits of scholarship of the Central Government to the Scheduled Caste students taking education by distance education procedure.

13. Learned counsel appearing for the petitioners thus submitted that the impugned order dated 30.06.2015 refusing scholarship to the students in 2-D Animation Course in the petitioners' institutions is not legal and he has prayed to set aside the impugned order and to disburse the scholarship to the students.

14. Learned AGP appearing for the respondents/State referring to the reply affidavit dated 20.04.2018 of respondent No.5 Social Welfare Officer, Jalgaon submitted that the Government of India, Ministry of Social Justice and Empowerment vide letter dated 31.12.2010 revised Centrally Sponsored Scheme of Post Matric Scholarship for the students belonging to Scheduled Caste w.e.f. 01.07.2010. The revision includes change in (i) income ceiling (ii) grouping of courses and (iii) rates of maintenance and other allowances. Pursuant to the letter dated 31.12.2010, State Government vide resolution dated 02.08.2011 granted sanction to revise rate of scholarship

and enhanced income limit of the scheme alongwith other related issues. It is submitted that as per revised scheme the scholarship is permitted to some of the courses in the distance education which are for more than two years, but the 2-D Animation Course is less than one year course. Therefore, said course is not included in the Group IV. It is submitted that thus, as the 2-D Animation Course is not included in the Group IV of the existing revised Centrally Sponsored Scheme of Post Metric Scholarship dated 31.12.2010 and the State Government Resolution dated 02.08.2011 the students admitted in the said course are not entitled for scholarship. Learned AGP submitted that since the Academic year 2014-2015 the process of mapping of approved and eligible course is done. Before that user ID and Password were given to all the colleges. In accordance with that user ID and Password were likely to be given to the petitioners, but that does not mean that the scholarship will be granted to any of the courses only because the user ID and password are obtained. It is submitted that the scholarship will be given only to the courses which are eligible for the scholarship.

15. Learned AGP submitted that the Government has taken decision that the course which is for more than one year should be given the scholarship relying upon the Government Resolution dated 30.08.2014. Moreover, referring to letter dated 11.11.2014 of the Commissioner, Social Welfare, Maharashtra State, learned AGP submitted that the scholarship is applicable to full time courses for more than two years and such sixteen courses are mentioned in the said letter in which 2-D Animation course is not included. Moreover, learned AGP has invited our attention to the letter dated 23.02.2016 addressed to the Registrar of the University by the Social Welfare, Maharashtra State, Pune informing that the scholarship granted by the Central Government for the students of Scheduled Caste would not be applicable to the courses of

less than one year's period. Thus, learned AGP has prayed to dismiss the petition.

16. Smt. Mane, learned counsel appearing for respondent No.7 University referring to reply affidavit dated 18.06.2018 of one Mr. Prakash Panjabrao Mankar and referring to the copy of complaint and enquiry report enclosed with said report submitted that due to the illegalities committed by the petitioners' office of deponent commenced enquiry through Enquiry Committee. The Enquiry Committee was headed by President and five members. The report was submitted by the said Enquiry Committee and respondent No.7 is directed by the Enquiry committee to initiate criminal proceeding by filing FIR against the petitioner in writ petition No.6347/2017 as the said petitioner has committed serious offence, as the said petitioner has made efforts to extract the amount of scholarship in doubtful manner. She submitted that respondent No.7 has lodged the complaint dated 26.02.2015. Thus, it is submitted that the petitioners are not entitled to scholarship to the students studying in the 2-D Animation course. It is also submitted that action would be taken against the petitioners to recover the scholarship amount paid to the concerned petitioners' institutions. Thus, she has claimed to dismiss the petitions."

6. As we proceeded to deal with these petitions, we were candidly informed by the learned Advocate for the University that, firstly, no FIR was registered against these petitioners/Institutions in any police station. Simple complaints were filed as regards the misappropriation of scholarship funds. Secondcdly, the University has now withdrawn the complaints against the petitioners from the concerned police station. As a

consequence, there has been no criminal investigation caused with regard to the complaints, that were filed by the University against these petitioners/Institutions. The learned advocate for the University expresses regret that an incorrect statement was made earlier which led to the dismissal of these petitions.

7. As observed by the Hon'ble Supreme Court, we have considered paragraph No.24 of the earlier judgment dated 03/08/2018, which has been quashed and set aside by the Hon'ble Supreme Court vide order dated 07/10/2021. There is a reference to a Government Resolution dated 02/08/2011, concluding that the 2-D Animation course is said to be excluded for the purpose of the scholarship. A Central Government letter dated 31/12/2010 is also referred in the said paragraph.

8. We have perused the said Government Resolution as well as the Central Government letter dated 31/12/2010. The scheme was earlier revised w.e.f. 01/04/2003 and then again revised w.e.f. 01/07/2010, vide the communication from the Government of India, Ministry of Social Justice and Empowerment, dated 31/10/2010. Under Group (IV), all post-matriculation level non-degree courses, for which entrance qualification is High School (Class X), e.g. Senior Secondary Certificate (Class XI and Class

XII), both general and vocational stream, I.T.I. courses, 3 year diploma courses in Polytechnics were covered under the Revised Provisions/Rates w.e.f. 01/07/2010. Earlier also, these courses were available under the earlier scheme revised w.e.f. 01/04/2003. The learned Advocate for the University as well as the learned A.G.P. for the State could not point out any specific clause from the Government Resolution dated 02/08/2021, by which, it could be concluded that the 2-D Animation course has been specifically excluded from the scholarship scheme.

9. In view of the above, the issues that need to be considered by this Court, are as under :-

(1) Whether the last Government Resolution dated 30/08/2014, has excluded “Diploma in 2-D Animation” from the ambit of granting scholarship to the students belonging to the reserved categories, who have secured admission to the ‘One Year’ Course in the said stream ?;

(2) Whether the then Commissioner, Social Welfare, State of Maharashtra, Pune, while issuing a Circular dated 11/11/2014, was unaware of the Corrigendum Government Resolution dated 17/09/2014 in relation to the Government Resolution dated 30/08/2014, clarifying that wherever the words “Two Years” Course were mentioned in the

Government Resolution dated 30/08/2014, the same should be read as “One Year” Course ?; and

(3) Whether similarly placed Educational Institutions in different areas, were granted the scholarship benefits for the academic year 2013-14 for the “One Year” course of “Diploma in 2-D Animation” ?

FIRST AND SECOND ISSUES

10. For the purposes of deciding Issue Nos.1 and 2, we refer to the last Government Resolution dated 30/08/2014 (hereinafter referred to as ‘the G.R.’), wherein the State Government, through the Social Justice and Special Assistance Department, provided for scholarship for students, belonging to the Backward Categories, admitted in courses operated by the Maharashtra State Technical Education Board. For the sake of clarity, we are reproducing the contents of the G.R., as under :-

महाराष्ट्र राज्य तंत्र शिक्षण परिक्षा मंडळ, मुंबई
यांच्या मार्फत चालविल्या जाणाऱ्या २ वर्ष व
त्यावरील पूर्ण वेळ अभ्यासक्रमांसाठी अनुसूचित
जातीच्या विद्यार्थ्यांना भारत सरकार मॅट्रिकोत्तर
शिष्यवृत्ती मंजूर करण्याबाबत

महाराष्ट्र शासन

सामाजिक न्याय व विशेष सहाय्य विभाग

शासन परिपत्रक क्रमांक: इबीसी - २०१४/प्र.क्र.२९/ शिक्षण- १

मंत्रालय, विस्तार भवन, मुंबई - ४०० ०३२

तारीख : ३० ऑगस्ट, २०१४

वाचा:— १) शासन निर्णय, सामाजिक न्याय व विशेष सहाय्य विभाग

क्रमांक - इबीसी २०११/प्र.क्र.४/मावक-२, दि. ०२/०८/२०११

२) आयुक्त, समाज कल्याण आयुक्तालय, पुणे यांचे पत्र क्रमांक

भा सशि/बैंक वितरण/का-४/२०१२/४०८, दि. २१/०३/२०१२

३) उच्च व तंत्र शिक्षण विभागाचे पत्र टिईडी-२०१३/१२७/१३/तांशि-

५, दि.०८/१०/२०१३.

परिपत्रक :-

महाराष्ट्र राज्य तंत्र शिक्षण परीक्षा मंडळ, मुंबई यांच्यामार्फत शासन मान्यता प्राप्त संस्थेत २ वर्ष व त्यावरील पूर्ण वेळ अभ्यासक्रमास प्रवेश घेतलेल्या अनुसूचित जातीच्या विद्यार्थ्यांना भारत सरकार मॅट्रिकोत्तर शिष्यवृत्तीच्या अनुज्ञेयतेबाबत क्षेत्रिय अधिकाऱ्यांमध्ये संभ्रम निर्माण होत आहे. त्याअनुषंगाने पात्र विद्यार्थी शिष्यवृत्तीपासून वंचित राहू नये, त्याचप्रमाणे अपात्र विद्यार्थ्यांस चुकीच्या पध्दतीने शिष्यवृत्तीचा लाभ घेऊ नये याकरिता सदर अभ्यासक्रमास काही अटी व शर्तीच्या अधीन राहून सन २०१३-१४ पासून शिष्यवृत्ती मजूर करण्याची कार्यवाही करण्यासाठी पुढीलप्रमाणे सूचना देण्यात येत आहेत :-

१) उच्च व तंत्र शिक्षण विभागांतर्गत महाराष्ट्र राज्य तंत्र शिक्षण परीक्षा मंडळामार्फत २ वर्ष व त्यावरील पूर्ण वेळ अभ्यासक्रम चालविणाऱ्या संस्था व संबंधित अभ्यासक्रमास केंद्र अथवा राज्य शासनाची मान्यता प्राप्त असणे आवश्यक आहे.

२) उच्च व तंत्र शिक्षण विभागाने वेळोवेळी निश्चित केलेल्या दराने शिक्षण शुल्क महाराष्ट्र राज्य तंत्र शिक्षण परीक्षा मंडळामार्फत चालविल्या जाणाऱ्या उपरोक्त २ वर्ष व त्यावरील पूर्ण वेळ अभ्यासक्रमांसाठी अनुज्ञेय राहिल. ज्या अभ्यासक्रमांसाठी शिक्षण शुल्क अंतीम झाले नाहीत त्याबाबतीत तात्पुरत्या स्वरूपात मंजूर केलेल्या दराने सध्या अनुसूचित जातीच्या सर्व पात्र विद्यार्थ्यांना शिक्षण शुल्क मंजूर करावे. त्यानंतर शिक्षण शुल्क रक्कम उच्च व तंत्र शिक्षण विभागाने अंतीम केलेल्या दरानुसार देय राहिल.

३) सदर अभ्यासक्रमांसाठी विद्यार्थ्यास मुळ टी सी व इतर आवश्यक मुळ कागदपत्रांच्या आधारे प्रवेश देणे बंधनकारक राहिल.

४) अशा अभ्यासक्रमांच्या शिष्यवृत्तीसाठी विद्यार्थ्यांचे वय ३५ वर्षांपेक्षा जास्त नसावे.

५) अशा अभ्यासक्रमांसाठी प्रवेश घेतलेल्या प्रत्येक विद्यार्थ्यांना शिष्यवृत्तीसाठी ऑनलाईन अर्ज करणे बंधनकारक राहिल.

६) प्रवेश घेतलेल्या विद्यार्थ्यांचे बँक अकाउंट राष्ट्रीयकृत बँकेत असणे आवश्यक आहे. त्यानुसार विद्यार्थ्यांचा निर्वाह भत्ता व शिक्षण फी/ परिक्षा फी विद्यार्थ्यांच्या खात्यात जमा करण्यात यावी. मात्र सदर रक्कम विद्यार्थी परिक्षेस बसल्यानंतरच अदा करण्यात यावी.

७) एका विद्यार्थ्यास एकापेक्षा अधिक अभ्यासक्रमांसाठी ही शिष्यवृत्ती लागू राहणार नाही.

८) शिष्यवृत्ती घेणाऱ्या विद्यार्थ्याने ज्या अभ्यासक्रमासाठी शिष्यवृत्ती घेतलेली आहे, तो अभ्यासक्रम त्याने पूर्ण केला पाहिजे. जर तो अभ्यासक्रम त्याने अर्धवट सोडला व दुसऱ्या अभ्यासक्रमास प्रवेश घेतला तर दुसऱ्या अभ्यासक्रमाची शिष्यवृत्ती त्यास अनुज्ञेय होणार नाही.

९) अनुसूचित जातीच्या सर्व पात्र विद्यार्थ्यांना शिष्यवृत्ती दिली जाईल हयाची काळजी संबंधित सहायक आयुक्त समाजकल्याण, यांनी घ्यावी.

१०) इतर अटी व शर्ती केंद्र शासनाच्या शिष्यवृत्ती योजनेप्रमाणे राहतील.

2. उपरोक्त सूचना आयुक्त, समाजकल्याण आयुक्तालय, पुणे यांनी सर्व संबंधित अधिकल्यांच्या निदर्शनास आणाव्यात.

सदर परिपत्रक महाराष्ट्र शासनाच्या www.maharashtra.gov.in या संकेतस्थळावर उपलब्ध करण्यात आले असून त्याचा संकेतांक २०१४०८३०१६५६०९२४२२ असा आहे. हे परिपत्रक डिजीटल स्वाक्षरीने साक्षांकित करून काढण्यात येत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने.

(प्र.पो. लुबाळ)

अवर सचिव, महाराष्ट्र शासन

11. The issue that emerges from these petitions is with regard to, whether any course was specifically excluded from the ambit of the G.R. It is undisputed by the litigating parties that the courses which were conducted full time for two years or more under the Maharashtra State Technical Education Board, were covered by the G.R, beginning from the academic year 2013-14. Clause No.1 of the G.R. indicates that, those courses registered under the Higher and Technical Education Department, for which, the Maharashtra State Education Board conducts examination and having Two Years courses or more, would be covered by the G.R.

This G.R. neither restricts the courses to be included, nor does it specifically exclude any course.

12. We have perused the communication dated 11/11/2014, issued by the then Commissioner, Social Welfare Maharashtra State, Pune, addressed to all the Assistant Commissioners, Social Welfare and all the Regional Deputy Collectors, Social Welfare in the State of Maharashtra. Reference is made to the G.R. By the said communication, the concerned Commissioner, who is an I.A.S. Officer, has listed 16 courses, declaring that, these would be the courses, which would be eligible for the benefits of the G.R. It is not disputed by the State Government that, this communication is not a Government Resolution. It is well settled that, any such communication or Circular cannot nullify the effect of the G.R. If the State did not deem it appropriate to restrict the benefits of the G.R. to particular courses, and if all courses which would be within the Higher and Technical Education Department, for which examinations are conducted by the Maharashtra State Technical Education Board, have been covered, the Commissioner, Social Welfare cannot qualify which courses would stand included under the said G.R. If such communication runs counter to the purpose and intent of introduction of a G.R.

and actually nullifies the ambit and coverage of the G.R., such communication will have to be ignored.

13. There is yet another reason, why the communication of the Commissioner needs to be ignored. The State Government issued a Corrigendum Government Resolution dated 17/09/2014 (hereinafter referred to as the 'Corrigendum G.R.'), by which, the Government Resolution dated 30/08/2014 was corrected. The intent of introducing the Corrigendum G.R. is apparent. The State Government did not desire that the students from the Backward categories, who are admitted even to the One Year courses, which are conducted under the Maharashtra State Technical Education Board, should be deprived of the benefits of the Scholarship. With this intent, it was stated that the Government Resolution stands corrected and wherever the term "Two Years" is noticed, the same shall be replaced by "One year". It cannot be a contentious issue that a Corrigendum G.R. to the original G.R., would cause a correction or amendment by applying the doctrine of "relation back". The original G.R. would stand corrected from the date of its introduction.

14. It is obvious from the record, that the then Commissioner, who issued the communication dated 11/11/2014, was either not

aware of the Corrigendum G.R. or lost sight of the same. He has referred to the G.R. in his Circular, but not the Corrigendum G.R. which would indicate that, he was either not aware or it was not brought to his notice that, there was a Corrigendum G.R. Hence, we conclude that the communication of the then Commissioner would be of no consequence and deserves to be ignored. The G.R. stood amended with retrospective effect due to the Corrigendum issued promptly and, therefore, the One Year courses also stood covered by the said G.R.

We answer Issue Nos. 1 and 2, accordingly.

THIRD ISSUE

15. Insofar as Issue No.3 is concerned, the petitioners have placed before us a chart to indicate that an Institution operated by one of the petitioners, namely, Khandesh Bahuuddeshiya Vidyaprasarak Mandal, Jalgaon, received the scholarship amounts for the academic year 2013-14 for the One Year academic course of 'Diploma in 2-D Animation'. Since another Institution of the said petitioner/organization has received such scholarship benefits under the same G.R., in the light of the Corrigendum, that the petitioners contend that the State Government had never crystallized a view that those Institutions which operate courses

for periods of less than two years, should not be granted the benefits of the G.R.

16. Be that as it may, we are of the view that, when the G.R. includes all such courses which are conducted under the Maharashtra State Technical Education Board, by technical Institutions, and by the Corrigendum G.R., the original G.R. is corrected to include courses which have a One Year tenure, to be bestowed with the benefits of the G.R., the Secretary of the department or any authority, cannot take a different stand. This would amount to a discrimination between two institutions.

We, therefore, answer Issue No. 3 accordingly.

17. Under the order dated 07/10/2021, passed by the Hon'ble Supreme Court, we have perused paragraph No.24 of the earlier judgment, which has been quashed and set aside by the Hon'ble Supreme Court. It is true that the University had made a statement that a First Information Report has been registered against the Khandesh Bahuuddeshiya Vidya Prasarak Mandal, Jalgaon Sanchalit Red Pixel Animation Academy Jalgaon Taluka and District Jalgaon, for having committed several illegalities in extracting amounts from the Government, as is detailed in the Enquiry Report of the Enquiry Committee. However, today, the

learned Advocate for the University submits that, no such FIR has been registered and there has been no criminal investigation as there was no offence registered against this petitioner. It is stated that, a mere complaint was lodged by the University and the said complaint had also been withdrawn by the University. As such, there is no offence registered against any of these petitioners. Needless to state, in the event of any such development, the law would take it's own course.

18. In view of the above, these petitions are allowed.

19. Respondent Nos.1 and 2 would carry out an exercise of verifying the actually admitted students belonging to those reserved categories, which are covered by the G.R., if not already verified, and upon confirming such admissions, would initiate steps in terms of the G.R. for according the benefits. Let the exercise of verification and the follow up action in relation to the eligible candidates, be completed by 30/04/2023.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)

sjk