

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

WRIT PETITION NO. 9456 OF 2022

Shaikh Alshadab Shaikh Mehamud
Age 23 years, Occ. Nil.
R/o. C/o. Jamiloddin Siddiqui,
Shrinagar, Nanded – 431605

... **Petitioner**

VERSUS

- 1) The State of Maharashtra.
- 2) The Commissioner,
Education Department Maharashtra
State, Central Building First Floor
Dr. Annie Basant Road, Pune.
- 3) The Joint Director
Technical Education, Aurangabad
Milind Nagar, Rachnakar Colony,
Osmanpura, Aurangabad.
- 4) The Secretary,
Matoshree Pratishthan Group of
Institution Jijau Nagar, Latur-
Nanded Highway, Khupsarwadi,
Vishnupuri, Nanded.
- 5) The Principal,
Matoshree Pratishthan School of
Engineering, Jijau Nagar, Latur-
Nanded Highway, Khupsarwadi,
Vishnupuri, Nanded.
- 6) Education Officer (Secondary)
Zilla Parishad, Nanded.

... **Respondents**

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Advocate for Petitioner : Mr. Kulkarni Suvidh S. & V.U. Rathod
A.G.P. for Respondent Nos. 1 to 3 : Mr. A.A. Jagatkar
Advocate for Respondent Nos. 4 & 5 : Mr. S.S. Boara

CORAM	: MANGESH S. PATIL & SHAILESH P. BRAHME, JJ.
DATE	: 14.07.2023

PER COURT :

Heard the learned advocate for the petitioner, learned A.G.P and the learned advocate Mr. Bora for the respondent Nos. 4 and 5.

2. Rule. Rule is made returnable forthwith. At the joint request of the parties, the matter is being heard and disposed of finally at the stage of admission.

3. The Government has passed a resolution on 19.08.1995 *inter alia* providing that the wards of teachers of the schools receiving the government grant would be entitled to reimbursement of the tuition fees. The specific word 'Pramanit' (standardized) fees has been used in the provision. However, it has not been described or defined anywhere as to what could be this approved or standardized fees. It has not been expressly mentioned that it would be at par with the tuition fees being charged for the professional courses being run in the Government colleges. It appears that a corrigendum was also issued but no attempt was made to prescribe what the standardized fees meant. As can be seen, it transpires that even the various departments of the government were under confusion and by the latest Government resolution dated 16.03.2021 it is now being attempted to be explained that it would mean the tuition fees as prescribed and stipulated in the scheduled annexed to this Government resolution. We are emphasizing this fact to point out that without there being precise definition of what was intended to be refunded, this Government resolution was passed in the year 1995 and till the year 2021 this vagueness continued.

4. As a result of such confusion, the students like the petitioner herein have been facing difficulties since their original documents are not being returned even after completion of the course and even they are not being issued with the requisite certificates which otherwise they would be entitled to while passing out of the institution. The petitioner is now faced with the problem that the respondent Nos. 5 and 6 are not returning the documents and not giving any certificate though he has completed the course.

5. The learned A.G.P points out to us that subsequently there were certain communications in the form of departmental circulars addressing this issue regarding the quantum of the reimbursement to which such wards would be entitled to.

6. In our considered view, these would merely be departmental circulars and neither the powers were delegated to them to prescribe the standardized fees nor was there a Government resolution prescribing it subsequent to corrigendum of the year 1996 till a fresh resolution prescribing the fees to be reimbursed was passed in the year 2021.

7. After considering such a scenario, this Court in the matter of **Sarika Sanjay Gaikwad Vs. The State of Maharashtra and others in Writ Petition No. 969/2017** by the order dated 11.04.2018 directed the entire tuition fees of Rs. 40,000/- that was to be paid by the petitioner therein who was studying in a Government Medical College even when, at that time the stand of the Government was that she was entitled to reimbursement of the tuition fees @ Rs. 6000/- per annum. The learned A.G.P, on instructions, submits that a decision has now been taken to apply for the review of that order. A proposal has been forwarded and some time would be required. He places on record a correspondence dated 24.06.2022 received by his office informing about such decision. Admittedly, for last more than one year not even that review petition has been filed. That apart, even this decision to undergo for review has been taken after about four years of this Court deciding the matter of **Sarika Sanjay Gaikwad**.

8. Be that as it may, since we are in complete agreement with the view expressed by the coordinate bench in the matter of Sarika (supra). Even if the policy is to be changed such changed policy would apply prospectively. The petitioner had taken admission when the policy of the year 1995 was in force. He has completed the course and in the mid way in the year 2021 the policy has under gone the change. He is entitled to entertain a legitimate

expectation while taking the admission that there would be consistency in the Government policy.

9. In the light of the above, we allow the writ petition. We direct the Government to pay the tuition fees of the petitioner to the respondent Nos. 4 and 5 as early as possible and in any case within eight weeks from today. However, without waiting for such fees to be received from the Government, the respondent Nos. 4 and 5 shall immediately issue necessary certificate to the petitioner and even return his original documents on his furnishing an undertaking to the institute as well as to this Court that in case, so ordered in future he would pay/refund the amount as is directed by this Court. The certificates/documents shall be returned within a week.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-