

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4653 OF 2021

Hrutik S/O Hemant Patil And
Ors

... Petitioners.

V/S.

The State Of Maharashtra
Through Secretary Dept Of
Medical Education And Drugs
And Ors

... Respondents.

.....

Mr. Ashwin Deshpande for the Petitioner.

Mr. N.K.Rajpurohit AGP for the State-Respondents.

.....

**CORAM : NITIN JAMDAR, AND
MANJUSHA DESHPANDE, JJ.**

DATE : 6 November 2023.

P.C. :

Heard the learned counsel for the parties.

2 The Petitioners, who are 26 in number, have approached this Court seeking directions to the Respondent No.1-Directorate of Medical Education and Research, State of Maharashtra to extend the benefit of Government Resolution dated 20 September 2019 and direct the Respondents to reimburse the tuition fees of the Petitioners who had taken admission to first year MBBS Course in a Private College.

JYOTI
RAJESH
MANE

Digitally signed
by JYOTI
RAJESH MANE
Date: 2023.11.10
06:24:03 +0530

3 The State of Maharashtra issued Government Resolution on 20 September 2019 to extend the financial assistance to them, who would apply under Open Category and who were affected by implementation of the Reservation of Socially and Educationally Backward Classes (SEBC) and Economically Weaker Section (EWS) in the admission process. In view of the introduction of this Reservation, the Government had decided to extend financial assistance to reimburse the fees. The candidates who could not get admission in Government Medical and Dental Colleges and had to take admission in private unaided colleges.

4 In the list of students eligible to receive such financial assistance, the Petitioners names were not included. Therefore, the Petitioners filed this Writ Petition on 25 August 2020 seeking the above directions.

5 The State Government has filed reply affidavit on 18 August 2021. The reply narrates the background in which the Government Resolution was issued and thereafter states that out of 26 Petitioners, 22 Petitioners had raised an objection for inclusion of their names in the list. Out of 22 Petitioners, 21 Petitioners were given reply individually with explanation and others did not raise objection. Copy of the reply is annexed in the petition.

6 We have perused the reply. The individual reply does not make the position clear. It only states that Petitioner was not affected by

the implementation of the reservation. As regards the other Petitioners, admittedly no reply is given because they had not raised any objection.

7 Once the State of Maharashtra introduced a beneficial policy of reimbursement for the affected students, the reply and stand of the State in the Court should be commensurate with the object of the policy. The fact that some of the students have not raised objection cannot be a ground to not even deal with their cases when reply to the Petition is being filed. In the reply, their cases could have been explained. Even replies which have been given are not individual replies, but in the same format that the Petitioners are not affected. The cases of each of these Petitioners had to be looked into and thereafter decision had to be taken whether the Petitioners are affected by the introduction of the reservation for SEBC and EWS and if not, the reason for coming to the conclusion. The learned Counsel for the Petitioners is also right in contending that there has to be an objective criteria for coming to this conclusion, which is missing from the communications.

8 Therefore, all that we have before us is an entirely unsatisfactory reply affidavit which does not deal with individual case and does not give any reason, except conclusion. If such an approach is adopted, it will defeat the beneficial policy of the State.

9 In the light thereof, we direct Respondent No.2- the

Directorate of Medical Education and Research, to examine the case of each of these Petitioners and pass orders which would indicate the criteria adopted for coming to the conclusion and upon such criteria whether each of the Petitioner is entitled to reimbursement or not. Let this exercise be done within a period of six weeks.

10 Needless to state that if Respondent No.2 finds that any of the Petitioners are entitled for reimbursement, will proceed to issue necessary direction for reimbursement immediately.

11 Writ Petition is accordingly disposed of.

(MANJUSHA DESHPANDE, J.)

(NITIN JAMDAR, J.)