



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 2152 OF 2021

Vipasshi d/o Tarkeshwar Golghate and another. **PETITIONERS**

...VERSUS...

State of Maharashtra, through Secretary, Higher & ...**RESPONDENTS**
Technical Education Department, Mantralaya,
Mumbai and **others.**

Mrs. S.W.Deshpande, Advocate for petitioners.

Shri A.S.Fulzele, Additional Government Pleader for respondent nos. 1 to 5.

CORAM :- A.S.CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

ARGUMENTS WERE HEARD ON : 6th JULY, 2023

ORDER IS PRONOUNCED ON : 25th AUGUST 2023

P C.

In view of notice for final disposal issued earlier, the learned counsel for the parties have been heard.

2. The petitioner no.1 possesses a validity certificate of belonging to Mahar, Scheduled Caste dated 04.01.2019. She is domiciled in the State of Maharashtra and appeared for the NEET examination in the year 2020-21 from Nagpur. On the basis of her merit, she secured admission in the first year M.B.B.S. course at N.C.Medical College, Panipat, Haryana. The petitioner no.2 also possesses a caste validity certificate of belonging to

Mahar, Scheduled Caste dated 27.11.2018. He is also domiciled in the State of Maharashtra. Having appeared for the NEET examination in the year 2020-21 from Nagpur, he has secured admission in the first year M.B.B.S. course at T. S. Mishra Medical College, Lucknow (UP). Both the petitioners contend that they are unable to pay the tuition fees as well as examination fees which are approximately Rs.14 Lakhs annually. Under the belief that they are entitled to reimbursement of tuition fees and examination fees for students belonging to the Scheduled Caste category, they seek to rely upon the Government Resolution dated 01.11.2003. As per aforesaid policy education expenses being borne by the State Government was stated to be continued for every academic year from 2007-08 and onwards till 2014-15. On 31.03.2016 the Higher and Technical Education Department of the State Government issued a Government Resolution in the matter of reimbursement of education fees from the academic year 2015-16. On the same day, the Social Justice and Special Assistance Department of the State Government issued a Government Resolution by which financial assistance was provided for students from the reserved category taking education within the State of Maharashtra. It is under this belief that the petitioners considered themselves entitled to the benefit of reimbursement of tuition fees and examination fees. On 26.10.2016 a communication was issued by the Commissioner, Social Welfare, Maharashtra State, Pune to the Regional Commissioner, Social Welfare Department, Nagpur stating therein that the

benefit of Government Resolution dated 01.11.2003 of reimbursement of admission fees and examination fees was to be discontinued insofar as the students pursuing their education in other States than the State of Maharashtra. It was stated that those students who were receiving such benefits and were still continuing with their education would continue to receive the benefits till completion of their education. However, such benefit for the first time would not be made available to any new student. As a result, the petitioners contend that they are not held eligible to receive reimbursement of tuition fees and exam fees. It is in this backdrop the petitioners have sought a declaration that the Government Resolutions dated 31.03.2016 issued by the Higher and Technical Education as well as the Social Justice and Special Assistance Department of State of Maharashtra resulted in discrimination and the same were not applicable to the petitioners. The petitioners seek quashing of the communications dated 26.10.2016 and 22.02.2021 that have been issued by the Commissioner, Social Welfare, M.S., Pune and the Assistant Commissioner, Social Welfare Department, Nagpur respectively holding students who are pursuing education in other States to be not entitled to the benefit of aforesaid Government Resolutions.

3. In the reply filed by the Department of Social Justice and Special Assistance as well as the Commissioner, Social Welfare Department, Pune, it

has been stated that pursuant to Government Resolution dated 01.11.2003 the benefit of reimbursement in tuition fees and examination fees was extended to some students who were studying beyond the State of Maharashtra. A clarification was however issued on 26.10.2016 that such benefits would not be made available to new students taking education in other States. A practice was followed by the Social Welfare Department by issuing Government Resolutions every year and on that basis such benefits were extended from 2007 to 2016. The Scheme was applicable only to students from the Scheduled Caste category who were pursuing their studies in government recognized private non-grant-in-aid or permanently non-grant colleges located in the State of Maharashtra. Such benefit was not made admissible to such students studying outside the State of Maharashtra. A further affidavit has been filed by the said respondents on 25.10.2021 in which it has been stated that the application preferred by the petitioner no.1 on 08.02.2021 was considered by the Assistant Commissioner, Social Welfare Department, on 15.02.2021 and it was stated therein that the Freeship Scheme was not made applicable to new students from the year 2017-18 and hence the petitioner no.1 was not found eligible to such benefit. The petitioner no.1 in her affidavit has sought to urge that since the petitioners were admitted in their respective colleges through Centralized Admission Process, they ought to be held entitled to receive such benefit. Yet another affidavit filed by the said respondents dated 26.07.2022 by which it has been

reiterated that the benefit of the aforesaid Scheme was made admissible only to students belonging to Scheduled Caste category who were studying in professional institutions within the State of Maharashtra.

Pursis has been filed by the respondent nos. 2 to 5 placing on record the Government Resolution dated 02.08.2022 issued by the Other Backward Class Welfare Department as well as subsequent Government Resolution dated 12.09.2022 issued by the same Department. By referring to Government Resolution dated 08.11.2017 it is sought to be stated that 100 students belonging to Scheduled Caste category were permitted to take benefit of Rajarshee Shahu Maharaj Merit Scholarship Scheme from 2017-18 with regard to the institutions indicated in Annexure-B of the said Government Resolution. These institutions include the Indian Institute of Information Technology, Indian Institute of Technology, All India Institute of Medical Sciences, National Institute of Technology, etc.

4. In the backdrop of the aforesaid documentary material, we have heard the learned counsel for the parties. The right of a student belonging to Scheduled Caste category to receive the benefit of reimbursement of tuition fee and examination fee is a matter of Policy to be undertaken by the State authorities. By virtue of Government Resolution dated 01.11.2003 the Department of Social Justice started implementation of aforesaid Scheme from the academic year 2004-05. This Scheme came to be continued from

time to time and was based on the Scheme framed by the Central Government with regard to scholarship for the post-Matric course. By virtue of further policy decision taken by the Social Justice and Special Assistance Department as well as the Higher and Technical Education Department the benefit was extended for academic year 2015-16. It is by virtue of the decision dated 26.10.2016 that such benefit which was being extended in some cases to students pursuing their education in States other than the State of Maharashtra came to be discontinued. This was however done in a phased manner by ensuring that the students who were in the midst of their education would not suffer and hence that benefit was extended till such students completed their education. At the same time, it was clarified that no student would get such benefit for the first time from academic year 2015-16. Such benefit has not been shown to have been made available to fresh students who were taking education in States other than the State of Maharashtra from 2015-16 and onwards.

5. Perusal of the Government Resolution dated 31.03.2016 issued by the Department of Higher and Technical Education as well as Social Justice and Special Assistance Department, clearly indicates that the benefit of the Scheme has been made applicable to students pursuing education in the State of Maharashtra in the specified educational institutions. It has been clearly stipulated that such benefit would be admissible only to the

educational institutions mentioned therein. The same does not indicate that such benefit can be granted to students who pursue their education in other States than the State of Maharashtra. We find that it is for the respective departments to consider the beneficiaries under the said Scheme. Both the departments have made such benefits available to students taking education in the State of Maharashtra. However with a view to maintain continuity, such benefit was extended to those students who had received such benefits in the earlier academic years and whose education was likely to be affected by issuance of these Government Resolutions. We do not find that there is any arbitrariness in restricting the benefit of aforesaid Government Resolutions to the category of students taking education in the State of Maharashtra and not making it admissible to students who have been admitted in other States. It is true that the petitioners though domiciled in the State of Maharashtra have got their admissions in States other than the State of Maharashtra. The rights of the petitioners would be governed by the prevailing Policy dated 31.03.2016. The students taking education in the State of Maharashtra form one class and such benefit has been admissible to the entire class of such students. There is a reasonable nexus in providing for such benefit by the State Government to students eligible to receive such benefit by virtue of they pursuing their education in the State of Maharashtra. It is not the case of the petitioner that such benefits are made admissible to students taking education in State 'A', other than the State of

Maharashtra and that benefit is not being made available to students taking education in State 'B', other than the State of Maharashtra. There is no material on the basis of which it can be held that by not making such benefit available to students taking education beyond the State of Maharashtra, the State has acted in an arbitrary manner that is violative of Article 14 of the Constitution of India.

6. Reference was made to the decision in **Public Interest Litigation No.69/2011**(*Bapu Supadu Thorat vs. The State of Maharashtra*). Therein the students pursuing professional courses in colleges affiliated to deemed universities under the University Grant Commission Act, 1974 were denied the benefit of policy of reimbursement of fees. In that context, it was held that benefit under the Centrally Sponsored Scheme of post-Matric scholarships cannot be denied to students of deemed universities who were otherwise eligible to such scholarship. The ratio of this decision cannot be applied to the facts of the present case. Similar is the case with the judgment of the Full Bench in **Writ Petition No.775 of 2014** (*Yash Pramesh Rana and others vs. State of Maharashtra and others*).

The Government Resolution dated 08.11.2017 pertains to grant of scholarship to 100 students from the Scheduled Caste category taking education in the institutions indicated in Annexure-B to the said Government Resolution. The institutions where the petitioners are pursuing their

education are not named in Annexure-B and hence the petitioners cannot be granted benefit of Government Resolution dated 08.11.2017.

7. For aforesaid reasons we do not find that the reliefs sought by the petitioners can be granted to them. The writ petition therefore stands dismissed with no order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar.