



2024:DHC:6580



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

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Reserved on: 23.08.2024***Pronounced on: 30.08.2024***+ **W.P.(C) 11041/2024 & CM APPL. 45623/2024****MOHIT JITENDRA KUKADIA**

.....Petitioner

Through: Mr. Naresh Chahar, Mr. Vijay
Dahiya and Mr. Ayush
Tulsyan, Advs.

versus

UNION OF INDIA

.....Respondent

Through: Mr. Rajesh Gogna, CGSC
along with Ms. Priya Singh GP
& Mr. Nipun Jain, Advocate.**CORAM:****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****Index to the Judgment**

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SWARANA KANTA SHARMA, J.

1. The present writ petition has been filed under Article 226 of the Constitution of India on behalf of the petitioner seeking following reliefs:

- “a. Set aside order dated 19.07.2024 passed by Respondent qua the Petitioner; and
- b. Include the name of petitioner in the list of provisionally selected candidates making him eligible for scholarship subject to complete physical verification of documents and to completion of other requirements;”

FACTUAL BACKDROP

2. The petitioner before this Court i.e. Mr. Mohit Jitendera Kukadia has completed his Bachelor of Arts and Bachelor of Laws (Honors), Integrated Five Years Law Degree Course in Social Science and Language Examination, from the Faculty of Law, Maharaja Sayajirao University of Baroda, Vadodara, Gujarat in April 2020. The petitioner hails from a family of Traditional Artisans and wishes to avail the Central Sector Scholarship Scheme of National Overseas Scholarship (‘NOS’) for Scheduled Castes etc. candidates offered by the respondent herein i.e., Ministry of Social Justice and Empowerment, Department of Social Justice and Empowerment. The scholarship is meant to promote and help students who have secured admission in a foreign universities and belong to socially deprived



sections like Scheduled Castes, Denotified tribes, etc. The scholarship covers all expenses of a student including fees, lodging, stipend etc.

3. The case set out by the petitioner is that he has received an offer confirming his place in the Masters of Public Policy by the Blavatnik School Government at the University of Oxford, United Kingdom and the said course shall start from 30.09.2024. Thus, the petitioner had applied online to avail the National Overseas Scholarship given by the respondent and the petitioner had uploaded all the relevant documents regarding his qualifications, family's traditional artisan status, family income etc. Thereafter, on 19.07.2024, the respondent had published the result of the National Overseas Scholarship comprising 3 lists of candidates: (i) provisionally selected, (ii) not selected and (iii) rejected candidates. The petitioner was placed in the rejected list with a single remark "*ITR Acceptance document not furnished*". The petitioner had then rechecked his application and had found that he had mistakenly uploaded his Income Tax Return (*'ITR'*) computation instead of the ITR acceptance form. On 19.07.2024 the petitioner had sent a representation *via* email to the respondent to reconsider the '*rejection*' decision and he had also attached the copy of the required ITR acceptance form and other particulars of his NOS application. However, the petitioner had received no response. It is stated that the relevant guidelines provided that any grievance must be raised within 30 days.



4. Thereafter, on 24.07.2024, the petitioner had again sent a representation *via* email with an elaborate explanation of his *bona fide* error, along with a prayer for reconsideration of his application to the respondent. Thereafter, on 02.08.2024, the petitioner had written a third representation but his grievance was not addressed by the respondent and thus, he is constrained to approach this Court by way of the present writ petition.

SUBMISSIONS BEFORE THIS COURT

5. Sh. Naresh Chahar, **learned counsel appearing on behalf of the petitioner**, states that the petitioner herein hails from a long line of traditional artisans who make artificial jewellery and his grandfather began working as a traditional artisan at the age of 15 in the small town of Bhavnagar, Gujarat. It is also stated that the petitioner's family has endured generations of hardships, striving to meet even the most basic needs and the petitioner's father had to give up his dream of education as he could not afford it due to poverty. However, the petitioner herein is all set to break the cycle of poverty in his family as he has been selected for a Master's Program at Oxford University in the United Kingdom and the University is ranked third in the world QS Ranking.

6. It is further submitted that the respondent has failed to adhere to the principle of *audi alteram partem* as the petitioner was never awarded a fair and just opportunity to be heard and his application for the NOS was rejected. The respondent instead of having a hyper-technical approach could have a mechanism of flagging objections in



the application and providing an opportunity to correct the same rather than straightway rejecting it. It is stated that hyper technical approach in such matters can hardly be appreciated.

7. Learned counsel for the petitioner places reliance on Clause 8 (e) of the NOS Guidelines issued by the respondent as it allows the applicants to share their grievances within 30 days of the result. It is submitted that on one hand, the respondent states that the grievance of the applicants would be entertained for 30 days but on the other hand, there is no express mechanism for handling grievances and there is no mechanism of generating complaint/grievance number. It is further stated that the petitioner was not even allowed to enter the respondent's premises physically. It is stated that the petitioner could only find an email on the respondent's website and had sent 3 representations in 10 days but he had got no response.

8. It is further submitted that the petitioner was placed in the rejected list with a single remark "*ITR Acceptance document not furnished*". However, it is stated that as per the application document submitted by the petitioner reflects in the tax computation sheet that petitioner's family income is INR 5,54,291/- per annum which is exactly the same as per the tax acceptance form which he had to upload. Further, it is stated that the petitioner always had the required document and had mistakenly uploaded another and that the petitioner did not make any untrue, incorrect, false or misleading assertions regarding his income nor did he conceal any material facts regarding the income or its particulars.



9. It is stated that it would be extremely unjust to reject the petitioner's NOS application on such a ground without giving him a fair and reasonable opportunity to prevent or rectify the same. It is also stated that the petitioner had also uploaded his family income certificate issued by the Gujarat government showing his family income being less than Rs. 8 Lakhs annually. It is stated that such issuance of a certificate is only possible when an ITR acceptance form is available with the applicant. It clearly shows that the petitioner had nothing to hide and uploading a similar-looking document was just an unintentional mistake.

10. Learned counsel for the petitioner further submits that the petitioner qualifies for the scholarship in every other manner including his marks, family income, traditional artisan status etc. The merit list of candidates selected by respondents is on the basis of QS ranking of universities as per clause 9(c) of guidelines and that no candidate in the selected list is going to a university rated higher than that for which the petitioner is selected. Further, all four candidates selected in the list from the category of "*landless agricultural labourers and traditional artisans*" have very low QS rankings of their respective universities in comparison to that of the petitioner. It is stated that the petitioner, otherwise, would have been the first choice to be selected from this category had he uploaded the correct document. It is further stated that his merit and socially disadvantaged position must be taken into consideration and not just failure in uploading one document, which he always had and has subsequently filed with his representations.



11. Learned counsel for the petitioner further places reliance on decision in case of *Bajrang v. Ministry of Social Justice & Empowerment & Anr.*, 2022/DHC/00552 where the Coordinate Bench of this Court has decided in favour of the candidate wherein an application for a scholarship was rejected because the applicant uploaded his Income Tax Return and acknowledgement instead of uploading his Income Certificate.

12. On the other hand, **learned counsel appearing on behalf of the respondent** states that the application of the petitioner was received on the portal *vide* registration no. NOS0942202425 and was duly examined at the Division level. As per procedure, a detailed scrutiny at three levels was undertaken at the Division level. The scrutinized applications were then placed before the three members Selection-cum-Screening Committee headed by a Director and all the members of the Committee related to Divisions other than the NOS Division of the Department means thereby an independent committee constituted by Competent Authority in the Ministry to ensure transparency in preparing the merit list. After that, the final merit list was placed before the Worthy Minister for approval through Secretary. It is argued that the application of the petitioner was rejected as he had attached only an income certificate and computation sheet of total income, and no ITR Acceptance Document was submitted on the NOS Portal.

13. It is further submitted that the grievance of the petitioner was received on 19.07.2024 and 24.07.2024 stating that he has submitted traditional artisan form, family income certificate issued by the



Gujarat Government and by the District Mamlatdar and that these documents were provided to the candidate based on the ITR Acknowledgement. It is stated that the application submitted by the petitioner was re-examined and it was found that he has submitted a total family Income certificate according to which the income of his family is Rs.5,54,291/- and also submitted a computation sheet of total income. However, he has not submitted an ITR Acceptance document which was required as per the list of documents mentioned in Annexure-I of the Scheme Guidelines. The candidate's grievance was thus found to be devoid of merit and accordingly a reply was given to the petitioner *via* email dated 08.08.2024. It is also submitted that as per Clause 8 (d) of the NOS Scheme Guidelines, it is clearly mentioned that only online applications, complete in all respects, shall be considered and all incomplete applications will be summarily rejected and since the petitioner has failed to upload the ITR Acceptance Document and had rather uploaded a Computation of total income which has no authenticity, the Department has rejected his application.

14. Learned counsel for the respondent does not dispute the fact that the petitioner falls under the category of Landless Agricultural Labourer and Traditional Artisans. However, it is submitted that all four reserved slots for this category have already been filled by other selected candidates and the scheme does not provide for the redistribution of slots reserved for SC candidates, especially when all slots have been filled. Therefore, no further accommodation can be made for the petitioner in this regard. Furthermore, it is submitted



that as per the recommendation of the Expenditure Finance Committee (EFC) for the NOS scheme, 125 slots have been designated under the scheme, and awarding NOS to candidates beyond this number would contravene the EFC's recommendation.

15. It is further stated that the application of the petitioner has been rejected in accordance with the NOS Scheme Guidelines and thus, the present writ petition ought to be dismissed.

16. This Court has **heard** arguments addressed on behalf of both parties and has perused the material placed on record.

ANALYSIS & FINDINGS

17. In the present case, this Court notes that the petitioner Mr. Mohit Jitendera Kukadia had completed his integrated law degree from Maharaja Sayajirao University of Baroda in April 2020. Since he belongs to a family of traditional artisans, he had applied for the National Overseas Scholarship provided by the Ministry of Social Justice and Empowerment, aimed at supporting socially deprived students, including those from Scheduled Castes, for studies abroad. Mr. Mohit had received an offer to study for a Master's in Public Policy at the University of Oxford, which has to commence on 30.09.2024. However, his scholarship application was rejected due to the non-submission of the ITR acceptance form, as he had mistakenly uploaded the ITR computation instead. Despite submitting multiple representations with the correct document and explaining the error, it is stated that the respondent did not address his grievance.



Consequently, the petitioner has approached this Court seeking reconsideration of his scholarship application.

The National Overseas Scholarship Scheme

18. This Court notes that the Ministry of Social Justice & Empowerment implements the National Overseas Scholarship Scheme and the main objective of the Scheme is to facilitate the low-income students belonging to the Scheduled Castes, Denotified Nomadic and Semi-Nomadic Tribes, Landless Agricultural Labourer and Traditional Artisans category to obtain higher education viz. Master degree or Ph.D. courses by studying abroad and thereby improving their Economic and Social status.

19. To be eligible for the scholarship, applicants must have completed their undergraduate studies and should be seeking to pursue a Master's or Ph.D. degree abroad. One of the key criteria for eligibility is that the total annual family income should not exceed Rs. 8 lakh, ensuring that the scheme benefits those from economically weaker sections.

20. The objective of the NOS scheme introduced by Ministry of Social Justice and Empowerment reads as under:

“1 Objective of the Scheme

The Central Sector Scheme of National Overseas Scholarship is to facilitate the low income students belonging to the Scheduled Castes, Denotified Nomadic and Semi-Nomadic Tribes, Landless Agricultural Labourers and Traditional Artisans category to obtain higher education viz., Master degree or Ph.D courses by studying abroad thereby improving their Economic and Social status...”



21. The scholarship is comprehensive, covering tuition fees, living expenses, travel costs, and other necessary expenses such as books and equipment. Selection is merit-based, with applicants required to submit proof of admission to a foreign university, along with detailed documentation of their academic qualifications and income status. The scheme also includes a provision for applicants to file grievances within a specified period if their application is rejected, offering them a chance to rectify any errors or omissions. The goal of the NOS scheme is to uplift students from marginalized communities by removing financial barriers and enabling them to access world-class educational opportunities, thus promoting social justice and equality. Relevant Clauses of the NOS Scheme Guidelines are reproduced as under:

5. Income Ceiling

Total family income from all sources shall not exceed Rs. 8.00 lakh per annum in the preceding financial year as detailed in para 8 c of these guidelines. The income certificate should be issued by a Revenue Officer not below the rank of "Tehsildar". The students will submit the complete ITR/ITRs along with the CPC intimation order under Section 143(1) issued by the IT Department in respect of self and other family members before issuance of final award letter. The income certificate should either be in digital format, format of Govt. of India/State or on the letter head of the issuing authority.

8. Application Procedure

- a. The scheme will be advertised in the news papers/other media giving summarized information about the Scheme. The candidates, after assessing their eligibility and suitability, as per the eligibility conditions of the Scheme Guidelines, can apply online to this Ministry on the portal, i.e., www.nosmsje.gov.in.
- b. The selection year period would be April-March of each year. The portal shall be opened for calling of



applications for the first round from mid of February for a period of 45 days (before the beginning of selection year) and only online applications received shall be considered for award of selection. In case the slots remain unfilled, the portal will be opened again for the second cycle from 1st of September for a period of 45 days in each selection year. Once all the 125 slots are filled, the portal will not be reopened during the year for submission of applications.

- c. For the first round of each Selection Year, family income for last completed financial year will be taken into account for the purpose of selection. For the second round, the family income for the previous completed financial year will be taken into account for purpose of selection. For example, for the selections for the financial year 2024-25, online portal for inviting applications of NOS Scholarship for first round will be opened from 15 February 2024 to 31 March 2024 and family income for financial year 2022-23 will be taken into account for purpose of selection. However, in such cases where gross annual income for FY 2022-23 is more than Rs.2.5 lakh, then in such cases family income for the financial year 2023-24 i.e. last completed financial year will also be taken into account before issue of final award letter besides family income for the financial year 2022-23 (to be furnished during the application submission process) and scholarship will be granted to the candidate subject to the condition that his/her family income for the financial year 2023-24 is less than Rs.8.00 lakh. Failing this, the provisional award letter issued to the candidate will stand cancelled. The portal for second round will be opened from 1st September, 2024 to 15th October, 2024 and for that family income for financial year 2023-24 will be taken into account for purpose of selection.
- d. Online applications complete in all respects only shall be considered for award. All the incomplete applications will be summarily rejected. However, the rejected candidates will have the option to apply in subsequent phases of selection. The candidates are required to submit documents as per the attached Annexure I.
- e. Grievances in connection with results will be entertained for upto 30 calendar days from the publication of the Result in the portal.



22. This Court observes that the National Overseas Scholarship scheme is advertised through newspapers and other media, directing eligible candidates to apply online *via* the official portal i.e., on www.nosmsje.gov.in. The selection process takes place annually from April to March, with the portal opening for the first round of applications in mid-February for 45 days, and if slots remain unfilled, a second round begins on September 1st for another 45 days. A total of 125 slots are available each year, and once filled, no further applications are accepted. Family income from the previous financial year is considered during selection, with specific provisions for verifying income for the most recent financial year if certain thresholds are exceeded. Only complete applications submitted online are considered, and any incomplete applications are rejected, though candidates can reapply in subsequent phases. Grievances related to the selection results must be submitted within 30 days of the results being published on the portal.

23. Thus, this Court is well within its jurisdiction to adjudicate the present matter. The relevant Guideline of the NOS Scheme is reproduced as under:

“18. Litigation

Any litigation on matters arising out of this Scheme in India will be subject to sole jurisdiction of the courts situated in Union Territory of Delhi. The litigation arising abroad will be attended to by the Indian Missions”.



Avoiding Hyper-Technical Approach in Such Cases

24. In the present case, the Income Certificate, issued by the authorities where the petitioner and his family reside, reflects the same income details as those shown in the Income Tax Return along with the Computation of Total Income. A perusal of these documents clearly demonstrates that the petitioner meets the eligibility criteria, with the income figures in both documents being identical. Given this, a hyper-technical approach should not be applied by the respondent.

25. Under similar circumstances, the Coordinate bench of this Court in *Bajrang v. Ministry of Social Justice & Empowerment & Anr.*, 2022/DHC/00552 held as follows:

“8. The Petitioner has been found meritorious by the University. Both in the first year and the second year he is on the merit list. Considering these facts and submissions, in the opinion of this Court, a mere discrepancy in filing the Income Tax Return instead of the Income Certificate, despite the two documents evidencing the same parameters of income requirements, cannot lead to a situation where an eligible meritorious candidate is deprived of the scholarship. The counter-affidavit does not raise any doubt as to the veracity of the documents submitted by the Petitioner or his eligibility. The University has also confirmed his merit position.

9. In *Renu Negi (supra)*, the Uttarakhand High Court, while considering a benevolent scheme for students, observed as under:

“9. The SHE-INSPIRE Scheme is a benevolent scheme but the application of the petitioner has been rejected on hyper-technical ground which is contrary to the object and spirit of the scheme. A perusal of the impugned order would further reveal that not only hyper-technical approach but also a strict and rigid view has been taken by the first respondent in rejecting



the petitioner's application. In the opinion of the Court, the first respondent was not justified in rejecting the application of the petitioner on the technical ground for want of endorsement certificate in proper place, especially when the scheme called SHE-INSPIRE Scheme is benevolent and the objective is providing scholarship to the BPL students. The Hon'ble Apex Court in the case of *Malathi Sardar vs. National Insurance Company Ltd.*, (2016) 3 SCC 43 has cautioned against adopting hyper technical approach in interpreting a benevolent provision for the victims of accidents of negligent driving. Hyper technical approach in such matters can hardly be appreciated.”

10. In the light of the above, this Court also notes that the Income Certificate is generated by the authorities where the Petitioner/his family resides. A perusal of the Income Tax Return along with Computation of Total Income also clearly shows that the eligibility is met by the Petitioner, and the income depicted in both documents is exactly the same. A hyper technical approach obviously ought not to be taken in this matter. The Petitioner has also been diligent in replying, upon the discrepancies being pointed out by the Respondent. Thus, the Ministry ought to have considered the Petitioner's candidature and ought not to have rejected the Petitioner's application.

11. Under these circumstances and considering that the Petitioner is otherwise eligible, the Ministry is directed to process the Petitioner's application for grant of scholarship under the impugned Scheme for the academic year 2020-21 and grant the scholarship to the Petitioner within eight weeks. Any other benefits that may accrue to the Petitioner upon the said grant shall also be extended.”

26. Thus, this Court is of the opinion that a hyper-technical approach by the respondents should be avoided, especially in cases where the submitted documents do not contain any discrepancies and clearly demonstrate the applicant's eligibility. In the present case, the minor procedural error of uploading an incorrect document, though giving the correct information and which is not false and fabricated,



do not affect the substantive merits of the application, the respondents should consider the applicant's grievance and provide him with the opportunity to avail the scholarship. It is crucial that the purpose of such schemes—to support deserving candidates from marginalized communities—is not undermined by overly rigid interpretations of procedural requirements.

The Petitioner's Background and Achievements

27. This Court notes that the petitioner has secured admission to the Master of Public Policy program at the Blavatnik School of Government, University of Oxford, England. A perusal of the petitioner's income tax return reveals that he comes from a humble and financially disadvantaged background. Despite such hardships, it is heartening to note that the program for which he has been selected at Oxford University mentions the following in the offer letter regarding the candidates chosen for this program:

“...The MPP represents a transformative opportunity for aspiring leaders with a commitment to public service. **Admission to the MPP is highly competitive and in order to win a place our admitted students have demonstrated a combination of outstanding academic abilities, strong commitment to public service and proven evidence of leadership in their field...**”

The Struggles and Legacy of Traditional Artisans

28. During the course of arguments, the learned counsel for the petitioner informed the Court that the petitioner comes from a **long line of traditional artisans who make artificial jewelry**. He further informed the Court that the petitioner's grandfather began working as



a traditional artisan at the tender age of 15 in the small town of Bhavnagar, Gujarat. His family has endured generations of hardships, striving to meet even the most basic needs. The Court was further informed that the petitioner's father had to give up his dream of formal education because he could not afford it due to poverty.

29. In this Court's opinion, the certificate of traditional artisan issued to the petitioner establishes that he belongs to a family of traditional artisans. The arguments before this Court reveal that the petitioner, along with his last two generations, were traditional jewelry-making artisans in Gujarat. These arguments also indicate that the family struggled to make both ends meet. Despite this, the petitioner, with the unwavering support of his family, has managed to receive formal education and excel in it. This demonstrates not only the petitioner's determination but also his family's commitment to his success. They understood the importance of education and relentlessly supported his aspirations.

30. The records reveal that the petitioner's admission offer from the University of Oxford for the Master of Public Policy program is an opportunity well earned and is the first of its kind in three generations of his family. Through hard work and perseverance, the petitioner has managed to break through the barriers of poverty and achieve academic excellence.

The Significance of Education in Breaking the Cycle of Poverty

31. **This Court notes that traditional artisans, whose skills and crafts have been passed down through generations, often find**



themselves stuck in cycles of poverty if not given opportunities for growth. Without access to education and financial support, they are limited to earning modest incomes through their crafts, with little chance to improve their socio-economic status. The lack of opportunities prevent them from exploring new avenues or expanding their craft, leaving them trapped in poverty. This is why schemes like the National Overseas Scholarship are essential, as they provide the much-needed support for artisans to pursue higher education and break free from these constraints.

32. Generational struggles, marked by deep-rooted inequalities and persistent poverty, are closely interconnected. The cycle of poverty is perpetuated as each generation struggles with the same socio-economic barriers. Addressing these challenges requires targeted interventions like the National Overseas Scholarship, which offers a pathway out of poverty by providing the next generation with the education and skills needed to break this cycle.

33. The Court was informed that the petitioner aims to use the education he receives at Oxford to create, draft, and implement policies that will support and uplift communities like his. In this Court's opinion, the petitioner's achievement and journey are not only a reflection of his personal triumph but also an indication of his commitment to a greater purpose—helping traditional artisans achieve excellence in both their craft and academic pursuits, and lifting them out of poverty. Education ensures opportunities, and opportunities pave the way toward social equality, which is a fundamental purpose of a Constitutional Court. Once, the petitioner



herein has earned admission in such higher education and pursuit he cannot be denied this opportunity due to fault on the part of the concerned authorities.

The Importance of Recognizing Inequalities in Justice

34. Justice is not always about treating equally placed persons as equals; it also involves recognizing the inequalities among those who may appear to be equals.

35. The journey of the petitioner is one of resilience and determination. Born into a family of traditional artisans, he must have faced financial instability from a young age. Despite these hardships, the petitioner excelled academically, earning a law degree, his dedication led to an offer to study for a Master's in Public Policy at the University of Oxford—a life-changing opportunity that could break the cycle of poverty in his family. However, due to a small error in his scholarship application, his future has been put at risk. The petitioner has filed the necessary documents at the first given opportunity after lodging his grievance with the respondent and made multiple pleas for reconsideration but received no response till the filing of the present writ petition, forcing him to seek justice from this Court. **Thus, his journey highlights the importance of recognizing and addressing the unique struggles faced by those from marginalized communities.**



CONCLUSION

36. This Court is of the opinion that the primary role of constitutional Courts is to ensure fairness and equality in their adjudications. **Therefore, when cases are brought before the Court, it is essential to look beyond the written words of the petitions.** The story behind a case before it reaches the Court is often of immense value and can guide the Court in delivering judgments that truly ensure justice.

Decision

37. Considering the overall facts and circumstances of the case, and in view of observations made hereinabove including in paragraphs nos. 24 to 26, this Court is of the opinion that a mere discrepancy in filing the Income Tax computation and other relevant documents, especially issued by a recognized government authority, when both documents substantiate the same income parameters, instead of the Income Tax Acknowledgment Document, should not result in an eligible and meritorious candidate being deprived of the scholarship. The counter-affidavit does not cast any doubt on the authenticity of the documents submitted by the Petitioner or on his eligibility. Furthermore, Oxford University has confirmed his merit position.

38. In view thereof, the respondent herein is directed to process the petitioner's application for the scholarship under the National Overseas Scholarship scheme for the academic year 2024-25 and grant the scholarship within a period of two weeks to the petitioner.



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Any additional benefits that may arise from this scholarship should also be accorded to the petitioner.

39. In view of the above, the present petition along with pending application stands disposed of.

40. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

AUGUST 30, 2024/zp