



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

**WRIT PETITION NO. 4056/2023**

**Shri Mayur Sanghrakshit Patil,**  
Aged about 28 years, Occ. Student,  
R/o. 1794, Umred Road, Bahadura,  
Near Navnath Mandir, Bahadura,  
Nagpur 441 204

.... **PETITIONER(S)**

**// VERSUS //**

(1) **State of Maharashtra,**  
Through its Secretary,  
Ministry of Social Justice  
and Special Assistance Department,  
Mantralaya, Mumbai 32

(2) **The Commissioner,**  
Social Justice and Special  
Assistance Department,  
Commissioner of Social Justice Office,  
3 Church Road, Pune 411 001

.... **RESPONDENT(S)**

Mr. P.R. Agrawal, Advocate for the Petitioner(s)  
Mr. N.R. Patil, AGP for the Respondent(s)/State

**CORAM : AVINASH G. GHAROTE &  
SMT. M.S. JAWALKAR, JJ.**

**CLOSED FOR JUDGMENT ON :- APRIL 24, 2024**

**JUDGMENT PRONOUNCED ON :- MAY 8, 2024**

**JUDGMENT :- (PER: SMT. M.S. JAWALKAR, J.)**

1.           **RULE.** Rule made returnable forthwith. Heard finally by consent of learned Counsel for the respective parties.

2.           The Petitioner belongs to Scheduled Caste Category. The annual family income of the Petitioner is Rs.2,78,000/-. The Respondent No. 2 Commissioner Social Justice and Special Assistance Department, issued an advertisement for Scheduled Caste male and female students for foreign education under the Scheme named and styled as Rajarshi Shahu Maharaj Scholarship Scheme (hereinafter referred to as "the said Scheme") for Session 2023-24 published on 17/05/2023. The Petitioner has passed Bachelors of Computer Application examination. Earlier in 2003, only 10 students had been granted benefit of the said Scheme, however, thereafter considering the number of eligible candidates, number of persons entitled to benefit is increased to

75. The income criteria has been fixed by the Government of Maharashtra, so that the persons belonging to low income belt can get benefit of the said Scheme. The income criteria, which was Rs. 6,00,000/- per annum earlier was retained, as is indicated from Clause D(1) of the GR dated 27/06/2017 (Page 33), by which all the earlier GRs in that regard were superseded, however, by introduction of Clause D(2) in the aforesaid GR dated 27/06/2017 for students taking admission in QS World Ranking Top Hundred Foreign Institutions, the income criteria was done away with the GR dated 27/06/2017, is the one, which holds the field as on date, which is the admitted position, as per the contentions by the learned counsel for the petitioners and the respondents.

3. Learned Counsel for the Petitioner submits, that as income limit is removed, the students having high economic standards are also seeking & being granted benefit of the said Scheme, because of which, the students belonging to low income

category are deprived of their rights to seek the benefit of the Scheme even after qualifying the examination with good marks.

**3.1.** It is contention of the Petitioner that the said Scheme was drawn up, to benefit economically deprived students but the candidates who need no financial help are drawing the benefit of the said Scheme. The Petitioner has been selected in Duke University having QS Ranking 50, (National Rank), but due to financial inability and as banks are not ready to lend loan to the Petitioner, he has been deprived of his right to education. Thus, the benefit of the said Scheme is availed by the students who are economically stable and can themselves make expenses to seek education abroad.

**3.2.** On 02/05/2020, the Government of Maharashtra has withdrawn the income criteria, but thereafter again by issuing Addendum on 21/05/2021, the said criteria has been kept as it is, stating that due to COVID-19, the same could not be removed.

3.3. Our attention is drawn to the list produced by the Petitioner along with Amendment Application wherein he has given details of 24 selected candidates, out of them many are having sound financial capacity and their guardians are doing Government jobs. Our attention is also drawn to the Minutes of Meeting dated 01/06/2023 under the Chairmanship of Chief Secretary, Tribal Development Department, Mantralaya, Mumbai against Clause-5, for considering the topic in respect of foreign scholarship. In this meeting, it was decided that the clause, by which, there was no limit of income be canceled and yearly income limit of the family maximum to be Rs. 8 Lakhs, be termed as the upper limit for granting benefit of the Scheme. No GR, however, appears to have been issued consequent thereto, which would indicate that the GR dated 27/06/2017 would continue to hold the field.

4. Shri N.R. Patil, learned AGP vehemently opposed the Petition and submitted that the list is already prepared. It is submitted that the Government of Maharashtra introduced said

Scheme in the year 2003-04, and has made changes in the said Scheme from time to time. The number of students under the said Scheme were increased to 75. On 18/05/2023, the Respondent No. 2 published advertisement and last date of submission of application was till 05/07/2023.

**4.1.** In pursuance to the advertisement dated 18/05/2023, the Petitioner applied for foreign scholarship in Post Graduation Engineering faculty from Duke University US (QSWR-50). After completing the process of scrutiny of the Application at Government level, final list of eligible students was published on 06/09/2023, which was in terms of the Government Resolution dated 27/06/2017. It is contended that the selection process is already complete, in view of this, learned AGP opposed the Petition and submitted that Application can be considered for the next Academic Year.

**4.2.** It is also submitted by learned AGP, that as per the terms and conditions of Government Resolution dated

27/06/2017 only the students who have received unconditional offer letter from Foreign Educational Institutes can be or could alone be considered for foreign scholarship. A communication of a foreign institution having any condition or if it is a conditional offer letter, then the same can never be taken into consideration. Any form of conditional admission or a conditional offer letters makes the application ineligible for the foreign scholarship. It is contended that the offer letter was conditional one and therefore the Petitioner is ineligible to receive the scholarship.

5. We have heard the learned Counsel for the Petitioner as well as the learned AGP.

6. The object of the Rajshri Shahu Maharaj Scholarship Scheme, as is spelt out from the GR dated 27/06/2017 (page 31) which supersedes all earlier GRs in that regard, is to provide benefit to the students belonging to the Scheduled Caste category to study in International Educational Institutions. Initially, it was introduced so that the persons belonging to the low income belt

can get the benefits of the said Scheme. There was income criteria fixed by the Government, however, in the year 2015, the said condition has been removed. The same has been appeared to have been carried forward in the GR dated 27/06/2017, in which though vide clause D(1) it has been stipulated, that the income of the family of the student applying for the scheme including that of the student should not exceed Rs.6 Lakhs per annum, however clause D(2) indicates, that students, who have have been offered admission in the first hundred institutes which have QS World Ranking Top 100, the income criteria would not be applicable to them. Clause D(1 to 4) and E of the aforesaid GR dated 27/06/2017 are enumerated hereunder for ready reference:

**“(ड) उत्पन्न मर्यादा :-**

(१) विद्यार्थ्यांच्या पालकांचे / कुटुंबाचे व विद्यार्थी नोकरी करीत असल्यास त्याचे स्वतःचे उत्पन्न धरून सर्व मार्गांनी मिळणारे वार्षिक उत्पन्न रु.६.०० लाखापेक्षा जास्त नसावे.

(२) परदेशी शिष्यवृत्तीसाठी जागतिक क्रमवारीमध्ये पहिल्या १०० मध्ये (QS World Ranking Top १००) असणाऱ्या परदेशी विद्यापीठामध्ये तसेच लंडन स्कूल ऑफ इकोनॉमिक्समध्ये प्रवेश घेणाऱ्या विद्यार्थ्यांसाठी उत्पन्नाची मर्यादा लागू राहणार नाही.



(३) विद्यार्थी किंवा पालक किंवा दोन्ही नोकरीत असतील तर त्यांचे आयकर विवरणपत्र, फॉर्म नं.१६ व सक्षम प्राधिकारी (तहसिलदार किंवा नायब तहसिलदार पेक्षा कमी दर्जा नसलेल्या) यांच्याकडील मागील आर्थिक वर्षाचे कुटुंबाचे सर्व मार्गांनी मिळणाऱ्या उत्पन्नाचे प्रमाणपत्र सादर करणे आवश्यक राहिल.

(४) इतर विद्यार्थ्यांसाठी साठी सक्षम प्राधिकारी (तहसिलदार किंवा नायब तहसिलदार पेक्षा कमी दर्जा नसलेल्या) यांच्याकडील मागील आर्थिक वर्षाचे कुटुंबाचे सर्व मार्गांनी मिळणाऱ्या उत्पन्नाचे प्रमाणपत्र सादर करणे आवश्यक राहिल.

**(ई) शैक्षणिक अर्हता :-**

पदव्युत्तर पदवी किंवा पदव्युत्तर पदविका अभ्यासक्रमासाठी पदवी परिक्षेत व पीएचडी अभ्यासक्रमासाठी पदव्युत्तर परिक्षेत **किमान ५५% गुण** असणे आवश्यक.”

7. The purpose for bringing into existence the GR dated 27/06/2017, is as under:

**“ प्रस्तावना :-**

अनुसूचित जातीच्या विद्यार्थ्यांना आर्थिक परिस्थितीमुळे उच्च शिक्षणासाठी परदेशातील नामांकीत विद्यापीठामध्ये प्रवेश घेता येत नाही. विद्यार्थ्यांची गुणवत्ता असून आर्थिक परिस्थितीमुळे उच्च शिक्षणापासून वंचित रहावे लागते. अनुसूचित जातीच्या मुलांना परदेशात शिक्षणाची संधी मिळावी व त्यांच्या गुणवत्तेला वाव मिळावा म्हणून शासन निर्णय दिनांक ११ जून २००३ अन्वये राज्यात परदेश शिष्यवृत्ती योजना लागू करण्यात आली. विविध विषयामध्ये परदेशातील नामांकित विद्यापीठामध्ये ज्या विद्यार्थ्यांना प्रवेश मिळाला आहे अशा १० विद्यार्थ्यांना सुरुवातीला ही शिष्यवृत्ती देण्यात येत असे.

शासन निर्णय दिनांक १७ जून २००६ अन्वये १० विद्यार्थी संख्येमध्ये वाढ करुन ती २५ एवढी करण्यात आली. तदनंतर शासन निर्णय दिनांक २२ ऑक्टोबर २०१० अन्वये या परदेश शिष्यवृत्तीसाठी विद्यार्थ्यांची संख्या २५ वरुन ५० करण्यात आली आहे.

राज्यातील अनुसूचित जातीच्या विद्यार्थ्यांना परदेश शिष्यवृत्ती योजनांतर्गत मागील सर्व शासन निर्णयाचे एकत्र संकलन करुन एक सर्वकष अशी नियमावली तयार करुन. त्यानुसार सदरहू नियमावलीचे संकलन करणे व सुधारणा करण्याची बाब शासनाच्या विचाराधीन होती. ”

8. It would thus be apparent, that the purpose, of the GR, is to aid and assist, students belonging to the backward caste, in their attempt, to take higher education, which is a laudable purpose. It is therefore necessary, that to achieve the object of the purpose for which the GR has been brought into force, the income criteria ought to be maintained. Though Clause D(1) does that, however Clause D(2) takes away its effect, for students who have been offered admission, in the first 100 QS World Ranking Top 100 institution in foreign Countries. This would indicate, that the very purpose for providing scholarship to students of backward caste who are unable to take higher studies is being frustrated due to Clause D(2) which takes away

the said income limit. That this is happening, is apparent, from the table quoted in para 3 of the rejoinder of the Petitioner, which for the purpose of ready reference is quoted as under:

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<i>Sr. No.</i>	<i>Name</i>	<i>Income</i>	<i>Remark</i>
1.	<i>Prachi Abhilash Ramteke</i>	21,92,409	
2.	<i>Shreyas Siddharth Humne</i>	13,82,943	<i>Guardian is Govt. Servant</i>
3.	<i>Subham Madanlal Hajare</i>	7,82,780	<i>Guardian is Medical Practitioner</i>
4.	<i>Sayali Sudhir Koche</i>	22,71,035	<i>Guardian is Dist. Judge</i>
5.	<i>Rohan Subhash Pote</i>	4,01,160	
6.	<i>Pratiksha Vinayak Waghmare</i>	3,87,100	
7.	<i>Neel Vijay Sable</i>	72,000	
8.	<i>Tanmay Anil Thaware</i>	16,35,410	<i>Guardian is Teacher</i>
9.	<i>Kapil Yogesh Wankhede</i>	2,00,000	
10.	<i>Pritam Rashtrapal Gajbhiye</i>	31,000	
11.	<i>Yash Aroind Gaikwad</i>	32,42,763	<i>Guardian is Govt. Medical Officer</i>
12.	<i>Shreya Prakash Lanjewar</i>	16,29,550	<i>Guardian is Engineer in PWD</i>
13.	<i>Komlika Sameer Gaikwad</i>	14,46,220	<i>Guardians are Rtd. govt. servant</i>
14.	<i>Rutuja Anil Sawane</i>	8,47,408	<i>Guardian is in service in MSEDCL</i>
15.	<i>Shailesh Eknath Alone</i>	25,000	
16.	<i>Tejas Jaywant Lokhande</i>	19,07,261	<i>Guardian is in service with Pune University</i>
17.	<i>Yogita Vikas Kamble</i>	25,88,797	<i>Guardians are in service in school</i>

18.	<i>Ashutosh Gaikwad</i>	53,18,029	<i>Guardian is Asst. Professor in Govt. Medical College, A'bad</i>
19.	<i>Abhishek Nandkumar Choutmal</i>	10,28,100	<i>Guardian is working as Dy. Manager with New India Assurance Com.</i>
20.	<i>Abhishek Sunil Jadhav</i>	12,71,390	<i>Guardian is Central Govt. servant in Indian Air Force</i>
21.	<i>Abhijeet Premnath Kapse</i>	12,68,544	<i>Guardian is in Central Govt. servant as a Chief Ticket Inspector in Railway</i>
22.	<i>Ansh Rajnishkumar Thamke</i>	35,92,715	<i>Guardian is Programe Director in Birla Soft</i>
23.	<i>Aditi Suresh Khandare</i>	20,59,000	<i>Guardian is in Central Govt. service at Ministry of Cloth Union of India</i>
24.	<i>Pranjal Ravindra Khakse</i>	18,09,338	<i>Guardian is service as Asstt. General Manager in BSNL</i>

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9. This table, has not been controverted by the learned AGP, by filing any counter affidavit. The information in the table in fact, portrays a very dismal picture, inasmuch as students whose guardians are having substantial income and who are well placed in life, are also indicated to have been granted the benefit of the scholarship which results in defeating the very purpose for which the scheme was brought into force, to grant scholarship to persons who could not afford higher education Foreign Countries. This is directly attributable, to Clause D(2) of

the GR dated 27/06/2017. It is thus apparent, that the existence and operation of Clause D(2) of the GR dated 27/06/2017, clearly defeats the very purpose, for bringing the GR dated 27/06/2017, into existence and therefore, will have to be held unreasonable, arbitrary and not serving the purpose for which the GR was brought into force. Though it is contended, that in the subsequent meeting dated 01/06/2023 Clause D(2), is decided to be deleted, perhaps, that is because wiser sense appears to have prevailed upon the authorities. However, we have not been pointed out any corrigendum issued in pursuance to the decision said to have been taken in the meeting dated 01/06/2023 under the Chairmanship of Secretary, Tribal Development Department, on account of which no reliance can be placed thereupon. We, therefore, declare Clause D(2) of the GR dated 27/06/2017, as unreasonable as arbitrary and quash the same. The result would be that Clause No. 2 in the advertisement dated 17/05/2023 (page 10), would become redundant and inoperative.

**10.** The next contention, on behalf of the learned AGP, is that, the offer to the Petitioner, from the Duke Engineering Masters Programme was conditional. A perusal of the communication dated 14/04/2023 (page 271), would indicate that it informs the petitioner that he has been admitted into the Master of Engineering Program in Cybersecurity offered by the Pratt School of Engineering at Duke University for the 2023 Fall Term. The said admission, is not conditional, as all that it requires is to complete the necessary formalities as indicated therein. The contention therefore is rejected.

**11.** It is also not in dispute, that the annual income of the Petitioner and his family, meets the criteria as laid down in Clause D(1) of the GR dated 27/06/2017 and so also the Petitioner satisfied the educational qualification criteria as indicated in Clause (E) thereof, in view of which, we do not see any reason why the Petitioner ought not to be granted the scholarship.

12. Though as a result of the striking down of Condition D(2) in the GR dated 27/06/2017, the scholarship granted to the students, in view of the same, would become illegal, however considering the fact that they have already been granted benefit and have taken admission, the same is protected.

13. In the result, we pass the following order:-

### ORDER

(a) The Writ Petition is **allowed**.

(b) The Condition D(2) in the Government Resolution dated 27/06/2017 under the caption "उत्पन्न मर्यादा", is hereby struck down, as arbitrary and unreasonable. The resultant fall out would be that the Condition No. 2 in the advertisement dated 17/05/2023 under the head captioned as "उत्पन्न मर्यादा" (Income Limit) would become redundant and inoperative, however the scholarship already granted

to the students, who have secured admission, shall stand protected.

(c) The Respondents are directed to re-consider the Application of the Petitioner afresh in view of what has been said in this judgment, within a period of two weeks from today.

**14.** The Petition stands **disposed of** in the above terms.

No costs.

**15.** Pending Application(s), if any, shall stand(s) disposed of accordingly.

**(SMT. M.S. JAWALKAR, J.)**

**(AVINASH G. GHAROTE, J.)**