

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18297 of 2022

1. Rajeev Kumar, Son of Shiv Chandra Ram, Resident of village Bhuskaul Serha, P.O. - Harpur Pusa, P.S. - Pusa, District - Samsatipur, Bihar.
2. Youth for Dalit Adiwasi Rights through its General Secretary Rajesh Kumar @ Rajesh Ram S/o Dinesh Ram, Having its Office at village Bhuskaul Serha, P.O. - Harpur Pusa, P.S. - Pusa, District - Samastipur, Bihar.

... .. Petitioner/s

Versus

1. The Union of India through Secretary, Ministry of Social Justice and empowerment, Govt. of India, New Delhi.
2. The Under Secretary, Ministry of Social Justice and Empowerment, Govt. of India, New Delhi.
3. The Director, SCD- V, Ministry of Social Justice and Empowerment, Govt. of India, New Delhi.
4. The State of Bihar through its Chief Secretary, Govt. of Bihar, Patna.
5. The Chief Secretary, Govt. of Bihar, Patna.
6. The Principal Secretary, Department of Schedule Caste and Schedule Tribe Welfare, Patna.
7. The Additional Chief Secretary, Department of Education, Patna.
8. The National Commission for Schedule Caste through its Secretary, Fifth Floor, Lok Nayak Bhawan, Khan Market, New Delhi - 110003.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vikash Kumar Pankaj, Advocate
Mr. Pratiyush Kumar, Advocate

For the UOI : Dr. K.N. Singh, A.S.G.
Mr. Prabhat Kumar Singh, Advocate
Mr. Sriram Krishna, Advocate

For the State : Mr. Prashant Pratap, GP-2

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT



(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-08-2023

The writ petition is filed, as a Public Interest Litigation, to direct the respondent Nos. 4 to 7 to implement Clause 8 of Annexure-2 Guidelines, which is a scheme for Post Matric Scholarship to the students belonging to the Scheduled Caste for studies in India. The Guideline is for implementation of the scheme between 2020-21 to 2025-26 and is issued by the Government of India. Clause 8 of the Guidelines deals with issuance of Freeship Cards as defined under Clause 3(g). It is also alleged that without fully implementing the Guidelines issued by the Central Government, the State of Bihar has issued Annexure-8 whereby the maximum amount of Post Matric Scholarship, including tuition fees and other non-refundable fees payable to eligible beneficiaries under the Scheme, has been arbitrarily limited and in many instances not implemented.

2. A writ petition was filed earlier for the same relief, which was disposed of by Annexure-1 permitting the petitioner to withdraw the same and file a fresh petition with better particulars.

3. We have to immediately notice that the Guideline is for implementation of a Scheme framed by the Central Government; which is not statutory in nature and there



is no mandate on the State Government to implement it; especially if better schemes are available for the targeted category. If the scheme is implemented, there is a sharing of the financial liability by the Centre and the State at 60:40. The objective of the Scheme is to increase the gross enrollment ratio of the scheduled caste students in higher education, with a focus on those from the poorest households and the awardees are selected by the State Government/ Union Territory to which the applicant actually belongs. The role of the State Governments, as per the Scheme, is to adopt a methodology suitable to the local conditions for identification of students and to additionally make special efforts to identify the poorest households from various sources so as to enroll the eligible students under the Scheme in a mission mode. The funding pattern of the Scheme, as noticed above, will be in the ratio of 60:40 for the initial three year period between the Centre and the States with 5% overall annual increase each year; which will also be enabled Central assistance in the very same ratio.

4. Specifically paragraph 10.3 has to be noticed, which is extracted hereinbelow:-

“10.3. All the State Governments and Union Territory Administrations implementing the scheme will maintain the data of all the beneficiaries on their online portal and will distinctly mention the amount of scholarship under various components as mentioned in the Scheme.”



The above provision clearly indicates that there is an option on the State Governments and Union Territory Administrations for implementing the Scheme and the Guidelines are applicable only if it is implemented.

5. The learned Government Advocate specifically drew our attention to the counter affidavit dated 09.02.2023 filed on behalf of the 6th Respondent. It is pointed out that the Guidelines for implementation of the Scheme also creates liability on the respective State Governments/ Union Territories with respect to the actual expenditure; for which provision has to be made in their respective budgets. Even as per the Guidelines at Annexure-2, the Central Government and the State Government shares the liability on a 60:40 ratio with only a 5% overall annual increase being borne by the Central Government. Hence, any additional liability will have to be borne by the State Government. It is pointed out that different institutes were charging different fees for the same course and there was a requirement to rationalise the fee structure, which has been done with a proper approval of the competent authority i.e. the State Cabinet and upper ceiling of the scholarship of Scheduled Caste and Scheduled Tribe students was prescribed for the financial year 2015-16. A similar writ petition, being



CWJC No. 3939 of 2017, titled as **Yogendra Paswan vs. The State of Bihar**, again a Public Interest Litigation, was disposed of by order dated 03.07.2016. In the State of Bihar, it is pointed out that scholarship amounts of 86616 students for the year 2021-22 and 151978 students for the year 2021-22, have already been disbursed.

6. It is stated that in compliance of the directions issued by this Court, a meeting of all the stakeholders, including the Ministry of Social Justice and Empowerment as also Ministry of Tribal Affairs, Government of India, was convened on 29.07.2021. Various issues were raised by the concerned Departments like funding pattern, the amounts to be released under the Post Matric Scholarship Scheme, increase of maximum ceiling of annual income and the provision for quality education for the Scheduled Caste students. After threadbare discussions, a departmental resolution was passed requiring an upper ceiling to be provided for the scholarship of the Scheduled Caste and Scheduled Tribe students with approval of the State Cabinet, keeping in view the financial burden. It is also asserted that the State Government is sensitive and committed towards the welfare of the Scheduled Caste and Schedule Tribe students and while remaining cognizant of the issue regarding



up-gradation of educational qualifications for such marginalized section, the governance matrix also require optimum use of financial resources of the State.

7. A further supplementary counter affidavit dated 23.06.2023 has been filed by the 6th Respondent. It is pointed out by the learned Government Advocate that the Guidelines now pointed out by the petitioners only covers the Scheduled Caste students and the State of Bihar has a scheme for the Scheduled Tribe students too. The State also provides such reliefs to Extremely Backward Class community as identified in the State. The resolution taken by the State Government is to maintain a uniform standard and fair distribution of scholarship among the SC and ST students.

8. Having gone through the records and having heard the learned Government Advocate, we are of the opinion that this Court cannot by a judicial order direct implementation of the Scheme formulated by the Central Government; which can be implemented only at the option of the State Government. The State Government has also raised concerns about optimum disbursal of funds ensuring maximum coverage of all marginalized sections of the society; which cannot be brushed aside. These are all matters coming within the policy domain of



the State; in which this Court would not interfere and issue directions to overstep the wisdom of the Executive Government. We decline interference to the Scheme already formulated by the State Government and refuse to issue any positive directions based on the Guidelines produced at Annexure-2. We dismiss the writ petition with the fervent hope that the State would always remain alive to the needs of the marginalized and constantly endeavor in uplifting the downtrodden.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	26.08.2023
Transmission Date	

