

HIGH COURT OF MADHYA PRADESH,
BENCH AT GWALIOR

W.P.No.24786/2019

(Prashant Singh Kaurav Vs. State of M.P. and others)

(1)

Gwalior, dated : 22.10.2020

Petitioner in person.

Shri M.P.S.Raghuvanshi, Additional Advocate General for the respondents/State.

Shri Akshay Uppal, Advocate for the respondent No.5.

In pursuance of the directions issued by the Apex Court and guidelines issued by the High Court of Madhya Pradesh in the wake of COVID-19 outbreak, the matter was taken up through video conferencing while adhering to the norms of social distancing prescribed by the Government.

Heard finally with the consent of the parties.

2. By filing this Writ Petition under Article 226 of the Constitution of India, the petitioner is aggrieved by non-releasing of scholarship/fees as provided to the Backward Class and Minority Welfare Scheme of 2013, 2015 and 2018.

3. The brief facts leading to filing of this writ petition are that the petitioner belongs to Other Backward Classes (OBC) and has completed his study in law {B.A. LL.B. (Hons.)] from National University of Study and Research in Law, Ranchi (Jharkhand) during session 2014-19. The State of Madhya Pradesh has promulgated the scheme of Backward Class and Minority Welfare Scheme of 2013 (hereinafter shall be referred to the Scheme of 2013), for reimbursement of fees paid by students belonging to OBC category. The petitioner belongs to the OBC category and as such entitled for reimbursement of tuition fees and other fees as per the Scheme of

HIGH COURT OF MADHYA PRADESH,
BENCH AT GWALIOR

W.P.No.24786/2019

(Prashant Singh Kaurav Vs. State of M.P. and others)

(2)

2013. The petitioner also fulfills the criteria of income of family as per the scheme of 2013. It is submitted that the petitioner has deposited the following fees including tuition fees, Hostel fee, Registration fee, Enrollment fee etc. as mentioned in below given table :-

Academic Session	Semester	Date	Fee Paid
2014-15	First	02/07/2014	Rs. 1,50,000/-
	Second	03.02.2015	Rs. 79,832/-
2015-16	Third	18.08.2015	Rs. 1,06,000/-
	Fourth	02.02.2016	Rs. 89,000/-
2016-17	Fifth	06.09.2016	Rs. 1,04,000/-
	Sixth	20.03.2017	Rs. 89,000/-
2017-18	Seventh	31.08.2017	Rs. 1,06,000/-
	Eighth	06.03.2018	Rs. 91,000/-
2018-19	Ninth	29.08.2018	Rs. 1,06,000/-
	Tenth	02.03.2019	Rs. 88,000/-
Total Fee Paid			Rs.10,08,832/-
Refundable Fee (Admission Fee, Library, Mess and Hostel Security Fees) by Institute			Rs. 25,000/-
Total Non-Refundable Fee by Institute			Rs. 09,83,832/-

Thus, from the above, it is clear that the total Non-Refundable Fee deposited by the petitioner is Rs.9,83,832/-.

The petitioner has received the following amounts as per the Scheme of the State Government :-

Academic Session	Date	Scholarship Amount
2014-15	30.04.2015	Rs. 5,442/-
2015-16	05/05/16	Rs.1,05,200/-
2016-17	27.02.2017	Rs.1,05,200/-
2017-18	05/06/18	Rs.1,05,200/-
2018-19	23.09.2019	Rs.1,05,200/-
Total Fees Reimbursed		Rs.4,29,602/-

HIGH COURT OF MADHYA PRADESH,
BENCH AT GWALIOR

W.P.No.24786/2019

(Prashant Singh Kaurav Vs. State of M.P. and others)

(3)

Thus, the outstanding fees, which remained to be disbursed, as per the eligibility is Rs.5,54,230/-.

4. The petitioner from time to time had also submitted representations requesting the respondent/State to reimburse the fees to the petitioner but to no avail.

5. On the other hand, learned Additional Advocate General appearing for the respondents/State filed detailed return and submitted that the case of the other students, who had been granted the full reimbursement is slightly different from the petitioner. In the case of **Piru Dhakad Vs. State of M.P. and others (W.P.No.4295/2015)**, the student had pursued the study within the State and in the present case the petitioner pursued the study outside the State i.e. the State of Jharkhand and as such letters have been issued by the concerned department to the State Government for seeking opinion, which is still pending. In case, if it is found that the petitioner is entitled, then he would be given the benefit of the scheme. At present, the petitioner is not entitled for any relief as claimed for in the present petition and therefore the petition deserves to be dismissed.

6. Respondent No.5/National University of Study and Research in law Ranchi, Jharkhand has also filed return, wherein at the outset, it has been averred that the respondent No.5 has no role to play in respect of reimbursement of fees and other expenses and no relief has been claimed from the answering respondent No.5. However, the

HIGH COURT OF MADHYA PRADESH,
BENCH AT GWALIOR

W.P.No.24786/2019

(Prashant Singh Kaurav Vs. State of M.P. and others)

(4)

answering respondent had already forwarded letter dt.31.08.2019 to the respondent No.4 verifying the fact that the petitioner is the bona fide student of their institution and categorically mentioned that the fees paid by the petitioner to the University is Rs.10,08,832/-, out of which non-refundable amount is Rs.9,93,832/- and only Rs.15,000/- towards Mess Security, Library Security and Hostel Security is refundable.

7. Heard learned counsel for the parties.

8. Substratum of the controversy involved in the matter in essence is that :

(i) Whether the case of **Piru Dhakad (supra)** has no applicability in the facts and circumstances of the present case ?

(ii) Whether the institute where the petitioner has studied is not situated within the State of M.P. and whether the circulars apply only to the University within the State? and

(iii) Whether the reimbursement of Rs.4,29,602/- would be full reimbursement as per the entitlement in accordance with the circulars or not ?

9. Clause 5.3 of the scheme of 2013 clearly states as under :-

5.3 फीस :- विद्यार्थियों को नामांकन/पंजीयन, शिक्षण, खेलकूद, यूनिफार्म, पुस्तकालय, पत्र-पत्रिकाएं, चिकित्सा-जॉच फीस का तथा शैक्षणिक संस्था या विश्वविद्यालय/मंडल को विद्यार्थी द्वारा अनिवार्य रूप से दी जाने वाली ऐसी अन्य फीस का भुगतान किया जाएगा, परन्तु इसमें अवधान राशि, प्रतिभूति जमा जैसी वापसी योग्य जमा रकम में शामिल नहीं होगी एवं यह फीस उसी

HIGH COURT OF MADHYA PRADESH,
BENCH AT GWALIOR

W.P.No.24786/2019

(Prashant Singh Kaurav Vs. State of M.P. and others)

(5)

सीमा तक देय होगी जो किसी शासकीय संस्था में उसी पाठ्यक्रम में अध्ययनरत पिछड़े वर्ग के विद्यार्थी से ली जाती है । संबंधित संस्थाओं को भी तदाशय की निर्धारित शासकीय फीस के समतुल्य राशि की प्रतिपूर्ति की जावेगी ।

Clause 6.2 of the scheme of 2013 clearly states as under :-

6.2 उन उम्मीदवारों को जो एक राज्य से संबंधित है किन्तु दूसरे राज्य में अध्ययन कर रहे हैं, उस राज्य द्वारा छात्रवृत्तियां दी जाएगी जिस राज्य के वे हैं तथा वे अपना आवेदन पत्र उसी राज्य के सक्षम प्राधिकारियों को प्रस्तुत करेंगे । शुल्कों में छूट तथा अन्य रियायतों के मामले में भी यही समझा जाएगा कि वे अपने ही राज्य में अध्ययन कर रहे हैं ।

From the aforesaid Clause 5.3 of the scheme of 2013, it is clear that the State Government is obliged to reimburse the fees not only in respect of the tuition fees but also in respect of all other heads as mentioned in Clause 5.3. So far as the University, in which the candidate is studying is situated in another State, then also according to Clause 6.2 of the scheme of 2013 the fees would be reimbursed by the State where the candidate belongs to. In view of the above facts and circumstances, case of **Piru Dhakad (supra)** shall also be applicable in the present case.

10. The petitioner has already submitted the claim for reimbursement from time to time including necessary documents and family income certificate in respect of his claim, Therefore, the respondents are obliged to reimburse the fees in accordance with the policy. It is not in dispute that in the case of **Piru Dhakad (supra)**, the entire payment has been reimbursed to the petitioner therein.

HIGH COURT OF MADHYA PRADESH,
BENCH AT GWALIOR

W.P.No.24786/2019

(Prashant Singh Kaurav Vs. State of M.P. and others)

(6)

11. This Court is of the view that grant of scholarship or refund of fees is a matter of policy based on the decision of the government in the form of a benevolent scheme to be implemented strictly in accordance with the scheme. It is also not in dispute that the petitioner had deposited the entire amount of fees and other expenses, the State Government is bound to refund the same as per the terms and conditions of the said policy.

12. This Court in an identical case i.e. in the case of **Prakhar Gupta and another Vs. State of M.P. and another (W.P.No.11610/2019)** has opined as under :-

15. ...Once a student seeks admission in a particular course based on the scheme, he is influenced by the promise given by the State Government for refund of his Tuition Fee and he takes admission under a bonafide belief that for the entire course his Tuition Fee shall be refunded. Once the State Government gives a promise to a student at the time of his admission, the State Government has to fulfill the promise and grant refund of the Tuition Fee for the entire duration of course as originally promised at the time of admission.

17. In the present case, the principle of estoppel and acquiescence will apply and the State Government cannot stop payment of scholarship/fees to the dis-advantage of the petitioner No. 1.

13. In the present case also, the principle of estoppel and acquiescence will apply and the State Government cannot stop payment of scholarship/fees to the dis-advantage of the petitioner

HIGH COURT OF MADHYA PRADESH,
BENCH AT GWALIOR

W.P.No.24786/2019

(Prashant Singh Kaurav Vs. State of M.P. and others)

(7)

particularly in the light of the Clause 5.3 and 6.2 of the Policy quoted above.

14. In view whereof, we have no hesitation to hold that the petitioner is entitled to refund of the entire tuition fees/other admissible fees from time to time till he completed his B.A. LL.B. (Hons.) Course.

15. In these circumstances, the respondents/State is directed to reimburse the entire admissible fees to the petitioner within a period of 60 days from the date of receipt of certified copy of this order passed today.

16. With the aforesaid observations, the instant petition stands allowed to the extent indicated herein above.

There shall be no order as to costs.

(S.A.Dharmadhikari)
Judge

(Vishal Mishra)
Judge

SP